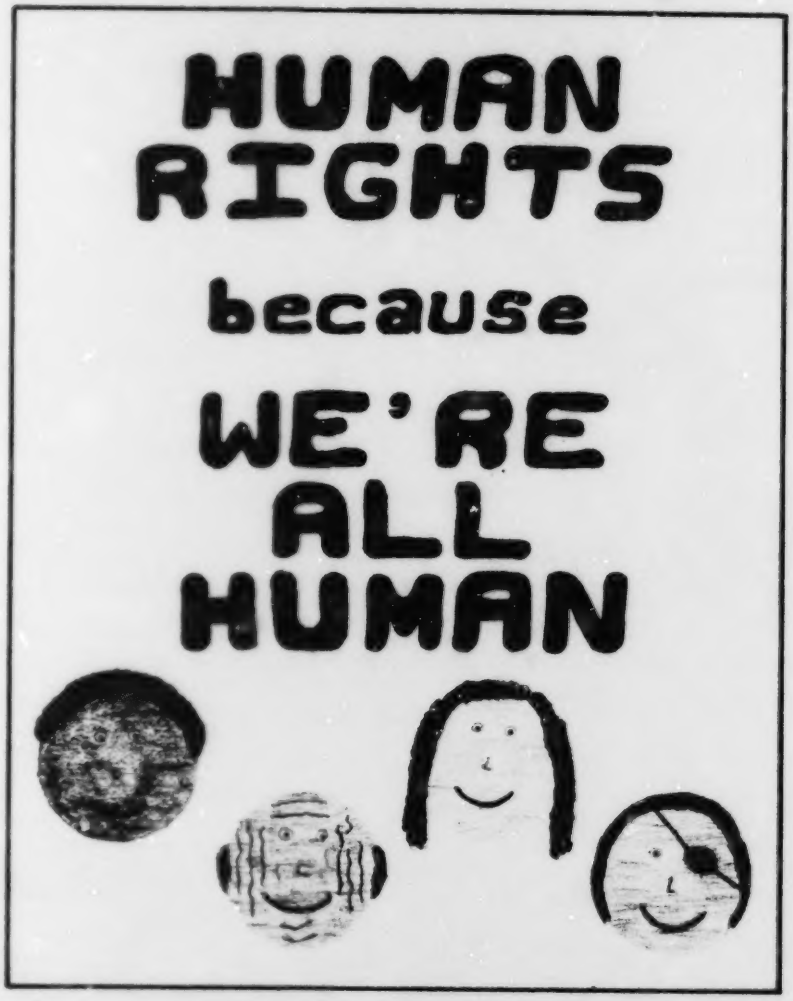
Manitoba Human Rights Commission



1983 Annual Report

84- 3365 /

The Manitoba Human Rights Commission

1983 Annual Report

The Manitoba Human Rights Commission
1007 - 330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4
(204) 944-3007 (After June 24, 1984 – 945-3007)
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or

The Manitoba Human Rights Commission
Room 1, P.O. Box 2550
Provincial Government Building
The Pas, Manitoba
R9A 1M4
(204) 623-6411 (Ext. 270)

or

Provincial Government Building
340 - Ninth Street
Brandon, Manitoba
R7A 6C2
(204) 727-8934

All other locations within Manitoba outside of Winnipeg:
Phone 1-800-282-8069 (Toll free to caller)

ATTORNEY-GENERAL OF MANITOBA

WINNIPEG R3C 0V8

Her Honour,

Pearl McGonigal,

Lieutenant-Governor for the Province

of Manitoba

Madame:

May it please your Honour, it is my pleasure to present to your Honour the Annual Report of The Manitoba Human Rights Commission for the year 1983.

Roland Penner, Q.C.

RP/mh

Att.

The Manitoba Human Rights Commission

(204) 944-3007/944-3008
1007 — 330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

Please refer to file _____

The Honourable Roland Penner, Q.C.

Attorney-General

Legislative Building

Winnipeg, Manitoba

R3C 0V8

Sir:

We are pleased to forward to you, the Minister responsible for administration of the Manitoba Human Rights Act, the Annual Report of the Manitoba Human Rights Commission for the calendar year ending December 31, 1983.

Dale Gibson

Dale Gibson

Chairperson

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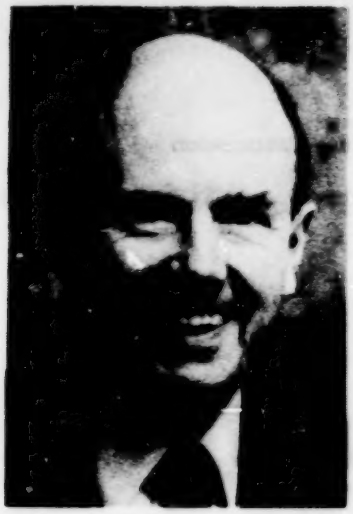
Manitoba Human Rights Commission



Chairperson:
Dale Gibson

Commissioners: (As at December 31, 1983)

		Term Expires
Dale Gibson	Chairperson	1984
Lawrie Cherniack	Vice-Chairperson	1986
Regina Bueno	Commissioner	1984
* Hélène Bulger	Commissioner	1985
* Wayne Courchene	Commissioner	1985
Marek Debicki	Commissioner	1985
Unni Hordern	Commissioner	1986
John Lane	Commissioner	1986
Maureen Miller	Commissioner	1984
Jill Oliver	Commissioner	1985
Maureen Penner	Commissioner	1984
Frank Whitehead	Commissioner	1984
Claudia Wright	Commissioner	1985

(For biographies of Commissioners see p. 33)

Minister:

The Honourable Roland Penner, Q.C.
Attorney-General

* Hélène Bulger replaced Denis Allard in April 1983
* Wayne Courchene replaced Sally Shrofel in August 1983

The Staff (as at December 31, 1983)

Executive Director:
Darlene Germscheid

Administrative Officer:
J.A. Kenneth McCuaig

Administrative Secretaries:
Frieda Brandt
Linda Kopys
Donna May
Terry Panchuk

Education Officer:
Roger Young

Co-Ordinator, Volunteer Program:
Judith Burch

Development Counsellor:
Barbara Stanford

Chief Enforcement Officer:
Mariann Burka

Enforcement Officers:
Buelah Blake
Walter Budge
Patrick Daly
Helen Forrest
Nancy Flintoft Meronek
Kenneth Swain
Sharon Wickman
Stanley Wood

The Pas Office

Regional Supervisor:
Ronald Chief

Regional Intake Officer:
Elizabeth Bennett

Other Staff who served a portion of 1983 were:
Joanne Cameron (Enforcement Officer)
Rose Cuddy (Enforcement Officer)

The Function of The Human Rights Commission

The Universal Declaration of Human Rights declares that: "All human beings are born free and equal in dignity and rights." In Manitoba, this ideal has been translated into law by *The Human Rights Act*, a provincial statute which prohibits discrimination on the basis of race, nationality, religion, sex, age, handicap, or other group stereotypes. The complete text of *The Human Rights Act* can be found at page 44 of this report.

The Manitoba Human Rights Commission is the agency chiefly responsible for carrying out the provisions of *The Human Rights Act*. The Commission is authorized by the Act to further the principle of equality of opportunity in two distinct ways: by processing individual complaints of conduct alleged to discriminate in violation of the Act, and by education.

All services provided by the Commission are available to the public without charge.

Complaints

Any person who believes that someone has contravened a provision of *The Human Rights Act*, may file a complaint of discrimination with the Commission and have the complaint investigated. If the facts support the allegation, an attempt is made to bring about a voluntary resolution of the matter. If the parties cannot agree on a satisfactory settlement, the Commission may decide that the complaint should be referred to a Board of Adjudication independent of the parties and the Commission. Boards of Adjudication have the authority to determine the facts and to order suitable remedies where they find that violations of *The Human Rights Act* have occurred. Summaries of recent Boards and other legal proceedings, and sample cases which were investigated in 1983 can be found at page 18 of this report.

Education

In addition to the Commission's responsibilities for the investigation and resolution of complaints, *The Human Rights Act* states that it is the function of the Commission to forward the principle that every person is free and equal in dignity and rights, and to develop and conduct educational activities designed to eliminate discriminatory practices.

Since stereotyped attitudes toward minority groups are the breeding ground of discrimination, our primary educational task is to expose the falsehood and danger of group stereotypes, and to stress the importance of judging people on the basis of their individual merits. Since stereotyped attitudes feed on ignorance, our most effective educational tools are those which encourage greater understanding of groups other than one's own. While programs for school-children are an important part of the Commission's educational responsibility, our task extends far beyond the classroom. The Commission attempts to carry the message of equality and toleration to all Manitobans by every means of communication our resources permit.

Special Programs

Protection against ongoing discrimination by itself is not enough. Historical practices have limited opportunities of minority groups by excluding them from equal participation in certain areas such as employment. To overcome these long-standing inequalities, it is often necessary to implement corrective measures by giving special preference to minority group members who have been traditionally denied access to training, education, job experience, etc. Section 9 of the Act gives the Commission the authority to approve affirmative action and other special programs which are designed to promote the "socio-economic welfare and equality in status" of such groups.

Jurisdiction

The Jurisdiction of the Human Rights Commission is restricted to matters within the constitutional authority of the provincial legislature. Most activities carried on in the province fall within provincial jurisdiction, but certain federally regulated enterprises, such as airlines, railways and the federal civil service, are beyond the reach of the provincial legislation. There is, however, a federal *Human Rights Act* to cover such matters. It is administered by the Human Rights Commission of Canada, which also has staff based in Manitoba. Any doubts as to which commission is appropriate to a given situation can be removed by contacting the Commission's Development Counsellor.

Composition

The Manitoba Human Rights Commission consists of two components. One component is a group of thirteen Commissioners, chosen by the Lieutenant Governor-In-Council from the public at large, who are responsible for the policies and general direction of the Commission. The other component is the civil service staff, which carries out the Commission's enforcement and educational activities. The roles of the Commissioners and of the staff will be explained more fully below.

The Responsibilities of Commissioners

Commissioners are selected from various geographic, cultural, social and economic sectors of the province. They are appointed for three year terms, and serve on a part-time basis. There are thirteen Commissioners, one of whom is the Chairperson and another the Vice-Chairperson.

The Commissioners act as policy makers for the Commission. It is their responsibility to set the priorities and to establish the policies which determine the manner in which the professional staff administer *The Human Rights Act*.

The Commissioners also play a decisive role in the processing of individual complaints under *The Human Rights Act*. Once a formal complaint has been signed, no file is closed without the knowledge and concurrence of the Commissioners. If a settlement has been negotiated between the complainant and the person complained against, the Commissioners are informed. If a complaint which appears to be meritorious cannot be successfully settled, the Commissioners decide whether to refer it to independent adjudication. And it is the responsibility of the Commissioners to dismiss a complaint if they are satisfied that it does not warrant further action.

One point that should be stressed is that the Commissioners do not have any authority to order compliance with *The Human Rights Act*. If they are of the opinion that the Act has been violated, and efforts to reach a mutually agreeable settlement have been unsuccessful, the most they can do is to refer the matter to adjudication by an impartial board. Where a criminal prosecution for violation of *The Human Rights Act* appears to be appropriate (not a common occurrence) the Commissioners may recommend that the minister commence a prosecution, and the final determination is made by a court.

The Duties of the Staff

It is the members of the professional staff, chiefly the Development Counsellor and the Human Rights Officers who are in direct contact with the public. It is they who examine, investigate, and attempt to conciliate complaints of discrimination, and it is they who conduct the Commission's educational activities.

Human rights work is a demanding profession. Officers are constantly placed in sensitive situations, and they must bring to their work a wide variety of skills. Human rights professionals are required to be effective listeners, and to have the ability to relate to persons from varied backgrounds, while maintaining neutrality and objectivity. Coupled with investigative skills, officers must also be able to negotiate settlements between often hostile parties without compromising the intent of the Act.

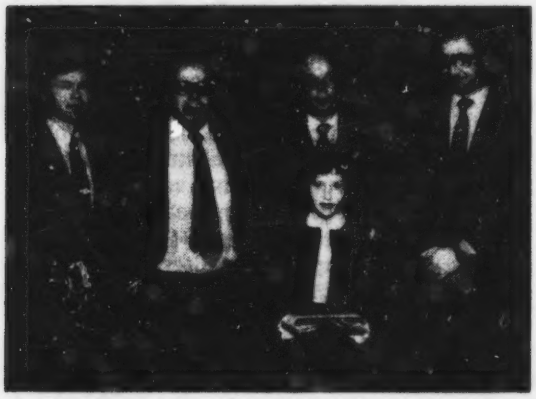
Inquiries coming to the Commission do not always fall within the Commission's jurisdiction, because *The Human Rights Act* deals only with discrimination in certain areas of activity, not with every incident that might be thought to involve "human rights" in the broadest sense. The Development Counsellor is ready to listen to all inquiries, and to assist callers to reach appropriate alternate agencies if *The Human Rights Act* does not appear to be applicable.

The Education Officer is involved in a variety of educational activities which are initiated by the Commission. The Education Officer and other staff members are available for speaking engagements, workshops, seminars, and general consultation. Every attempt is made to comply with requests for educational services, depending upon the availability of staff.

The professional staff work under the direction of the Executive Director, who is responsible to both the Commissioners and the Department of the Attorney-General for the effective operation of the Commission.

Presentation of First Prize by the Hon. Roland Penner, Attorney-General to Treena Bron.

Poster Contest Winners
Back Row: Karen Rasmussen, Melanie Peterson, Ronick Almas.
Front Row: Brent Morrisseau, Kristin Keller, Treena Bron (First Prize), Susan Attallah.



Representing contributors to the First Prize were L-R:
Mr. Gordon Camp, Sales Representative, Pacific Western Airlines
The Hon. Roland Penner, Q.C., Attorney-General
Mr. Wayne Bodington, Executive Assistant Manager, Westin Hotels, Winnipeg
Mr. Barry MacInnes, General Manager, Manitoba, Air Canada
Shown with Treena Bron

Treena Bron presents a photograph of her prize winning Winnipeg poster to Mr. James Jonah, Secretary-General of the Second World Conference to Combat Racism and Race Discrimination at the United Nations in New York City.
Photo Credit: UN Photo 163030/Miguel Jimenez

Mayor William Norrie presents the signed proclamation to Dale Gibson and members of the 35th Anniversary Committee in recognition of the 35 Anniversary of the signing of the Universal Declaration of Human Rights, December 10, 1983.
Left to right: Alan Borden, 35th Anniversary Committee, Lois Prince, 35th Anniversary Committee, Dale Gibson, Chairperson, Manitoba Human Rights Commission, William Norrie, Mayor of the City of Winnipeg, Darlene Germscheid, Executive Director, Manitoba Human Rights Commission.

COVER PHOTO
The photograph on the cover is the award-winning Grade 6 entry by Treena Bron of Flin Flon, Manitoba, in the Commission's Grade 6 Manitoba Poster Contest.

An Overview of 1983 Activities

Nineteen eighty-three severely tested the Human Rights Commission's ability to make the most of limited resources. Economic recession, which resulted in a government policy of fiscal restraint, also increased the need, and the public demand, for both enforcement and educational activities by the Commission. Meeting this challenge called for great imagination and dedication on the part of the Commission's staff and supporters.

Education and Outreach

The Commission's major educational initiative in 1983 — a public school poster competition — provides an excellent example of "doing more with less." The Commission was not granted an educational budget in 1983. Therefore, when the Education Officer decided that a poster contest with a human rights theme would be a fine way to stimulate discussions about questions of human rights in Manitoba school rooms, he knew that the project would have to be virtually self-financing. Refusing to be undaunted by lack of resources, the officer approached the business community for assistance. The result was a prize to make even the least enthusiastic school teacher or pupil take notice: a week in New York City for the winner and her or his chaperone. Little wonder that the contest attracted almost 1,000 entries from schools across the province.

The winner was eleven-year-old Treena Bron, a Grade 6 student from McIsaac School in Flin Flon. Treena's design was simple and powerful: four faces, representing women, non-whites, the elderly and the handicapped, beneath the motto "Human Rights Because We're All Human." The Commission hopes to use Treena's poster, and perhaps those of some runners-up as well, in future educational projects. In the meantime, selected posters are being exhibited in shopping malls and other suitable places.

Treena Bron and the runners-up attended an awards ceremony, presided over by the Attorney-General Roland Penner, and a dinner hosted by the Human Rights Commission. Treena and her mother flew to New York in mid-December (courtesy of Air Canada and Pacific Western Airlines), and stayed for a week at the Plaza Hotel (courtesy of Westin Hotels). They were welcomed by Kenneth Taylor, Canada's well-known representative in New York, and they were introduced to the United Nations Secretary General Javier Perez de Cuellar, to whom Treena presented a letter of greetings from Premier Howard Pawley. Treena was then invited to sit with the Canadian delegation to the United Nations Human Rights Committee, and became one of the youngest persons ever to vote in that important United Nations body. The event received national and international news coverage.

The celebration of the 35th Anniversary of the Universal Declaration of Human Rights was a major event of 1983. It highlighted the often forgotten fact that the importance of human rights extends far beyond provincial and national boundaries. Believing in the value of an increased public awareness of human rights in a world context, the Commission looked for inexpensive but effective ways in which we could encourage participation in this celebration. Our Education Officer joined with representatives of other organizations concerned with human rights — the 35th Anniversary Committee. This committee initiated and publicized several events to mark this important occasion. The announcement of the poster contest results was timed to coincide with the 35th Anniversary; the City of Brandon declared the week of December 4-10th as Human Rights Week; and the City of Winnipeg and several other Manitoba communities proclaimed December 10th as Human Rights Day.

Another major educational accomplishment in 1983 was the publication of a brochure concerning the rights and responsibilities of wheelchair users with respect to taxi-cab service. This project was embarked upon when the Commission received a complaint that a particular taxi driver had refused service to a wheelchair user. When the investigation revealed that there was a great deal of misunderstanding with respect to the needs of wheelchair users, representatives of the Winnipeg Taxicab Board and the Winnipeg Taxicab Association joined with the Commission in the development of a set of practical guidelines designed to assist the taxicab industry to provide effective taxi service to the physically handicapped without placing an undue burden on drivers who are themselves unable to assist handicapped passengers. These guidelines were distributed widely among both taxi operators and handicapped groups. The guidelines drew compliments from Commissions in other parts of Canada, and appear to have improved matters significantly for wheelchair users in Manitoba.

In addition to these special projects, commissioners and staff were involved in many other educational activities in 1983. Through our speaker service we continued to provide information on human rights to Manitobans. This

information was provided to schools, business organizations, service clubs, consumer groups, and many other agencies and organizations. We also received many requests for copies of our publications, and responded to the best of our ability. Limited resources sometimes prevented our supplying the quantities requested, however. Apart from the taxicab brochure described above, budget constraints also prevented the development of new publications.

An effective but inexpensive way to raise public awareness of human rights issues is to utilize the news media. The Commission continued to do so in 1983. In relation to one issue — the use of offensive stereotyped descriptions of Native Indian people — the Commission's public statements met criticism from some quarters. The nature of some of the criticism proved the need for the Commission's comments. The critics seemed unable to understand how derogatory or condescending expressions, used in reference to Native Indian people generally, can cause pain or embarrassment to particular individuals, and can reinforce intolerant attitudes toward Indians as a group. So long as such misunderstanding continues to exist in the community, it will be important for the Commission and others who value the dignity of the individual to speak out against the use of insulting group stereotypes.

"Informal" Cases

Section 13 of *The Human Rights Act* states that the function of the Manitoba Human Rights Commission is not limited to enforcement. It is also the function of the Commission to further the principle of equality in dignity and rights through educational and other means.

On occasion, an individual will come to the Commission with a concern which does not appear to involve a strict contravention of the Act but does, however, result from an incident in which the principles or spirit of human rights legislation have been offended. When confronted with such situations, the Commission attempts to respond in a manner which will result in an increased awareness of the effects of prejudice and bring about changes in the attitudes and behaviours which caused the situation to occur.

There are also instances where it appears that an immediate informal intervention may prevent a discriminatory act and eliminate the need for the formal complaint process.

The following paragraphs describe three situations in which it appeared to be inappropriate to proceed with a formal complaint under the enforcement provisions of the Act, but where the Commission felt that an informal or educational approach to the concern was warranted.

A provincial government employee complained to the Commission about the circulation of printed offensive and racist "jokes" being circulated in his department. The source of this material could not be determined. The Commission determined that although the "jokes" may have constituted a breach of the Act, the circumstances indicated that an informal approach was likely to be the most effective. Accordingly, an officer discussed the issue with the Deputy Minister and senior officials of the department. As a result, management agreed to take action to ensure that the employees were aware of the provisions of the *Human Rights Act* and requested their cooperation in combatting this insidious form of racism.

A formal complaint was filed by a person who alleged that a sign posted by a restaurant contravened the provisions of *The Human Rights Act.* The matter was investigated and the Commission dismissed the complaint because the sign did not, in the words of the Act, indicate "discrimination or intention to discriminate against a person," nor did it "expose a person to hatred." However, the sign did contain terms which were viewed by many Native persons as offensive and insulting to Native people generally. The Commission directed that an attempt be made to discuss the issues with the owner of the establishment in the hope that he would agree to correct the situation voluntarily. He was unwilling to do so. As the sign was publicly displayed, the Commission felt it was important to make a public comment on the damaging effects of the use of such terminology and the resulting injury to human dignity.

A married man with four children contacted the Commission and advised that he had applied to rent a three bedroom suite but was told that his application would not be accepted because the landlord believed that other statutes prevented him from renting to families with more than three children. The landlord was immediately contacted by an officer of the Commission and, after clarification of the provisions and application of the statutes in question, the landlord agreed to revise the rental policy and to consider the man's application. In this way, the matter was resolved and a discriminatory denial of housing accommodations was averted.

Volunteer Program

Under the auspices of a program called "Volunteers in Public Service" operated by the Department of Labour and Employment Services, the Commission was able to acquire the services of Judith Burch as Co-ordinator of Volunteers. This was the first step in the development of a volunteer program within the Manitoba Human Rights Commission.

Ms. Burch's assignment was not an easy one: to familiarize herself with the Commission's operation, to determine which tasks and projects could be appropriately carried out by volunteers, to recruit and train the volunteers, and, at least in the early stages, to supervise their day-to-day activities. She will also be required to assess the effectiveness of the program over the next few months so the Commission may determine the viability of the volunteer program as an ongoing aspect of our operation.

Although it is clear that volunteers cannot be expected to carry out the duties and responsibilities of our professional staff, it is our hope that the utilization of the wide range of skills and abilities being offered by volunteers will enable us to offer more effective service, particularly with respect to educational projects and contacts with parts of the community the Commission could not otherwise hope to reach during a time of economic restraint.

Although this program did not begin until September, some helpful services were already being provided by volunteers toward the end of 1983, notably in connection with the poster contest. Three volunteer projects that were getting underway at the end of the year were: the development of human rights articles for inclusion in a newsletter for new immigrants; the preparation of materials for a speaker's program; and a committee to plan educational projects to respond to the needs of the Native community.

Individuals or organizations interested in these or other aspects of the volunteer program are urged to contact Ms. Burch at 944-3019. (945-3019 after June 24, 1984)

Native Concerns

Our 1982 Annual Report stated that: "the improvement of communication and cooperation with representatives of the Native community will . . . be among the Commission's highest priorities in 1983." Some progress was made towards the attainment of that goal.

As previously stated, the Volunteer Co-ordinator has brought together a group of volunteers who have knowledge and experience in the area of Native education to develop educational projects geared to the needs and concerns of the Native community.

Toward the end of the year a Native Concerns Committee was established within the Commission to consult with representatives of the Native community and determine priority program areas. When our budget allocation for 1984/85 is known, the committee will translate the program priorities into a plan of action for the fiscal year.

Throughout 1983, we continued to receive and investigate complaints of discrimination against Native persons. Four of these complaints have been referred to Boards of Adjudication with hearings scheduled to take place early in 1984.

Native representation on the Commission increased with the appointment of Commissioner Courchene. The composition of the Commission at the end of 1983 included two Native Indians, one from northern Manitoba and one from Winnipeg, as well as a Commissioner of Metis background from the western part of the province. Our staff also includes officers with Native backgrounds.

As our 1982 Annual Report stated: "no group has experienced a longer or more deplorable history of discrimination than the descendants of North America's aboriginal inhabitants, and the problem remains distressingly prevalent today. Assisting Manitoba's Native Indian population to deal with this problem is one of the greatest challenges currently facing the Commission." Although nineteen eighty-three saw solid progress toward meeting that challenge, much more must be done before that observation ceases to be accurate.

Enforcement

When processing individual complaints of alleged violations of *The Human Rights Act*, the Commission again faced a squeeze between growing work loads and diminishing resources. It dealt with the problem in the same manner it did in its educational work: by stretching existing resources to the breaking point.

Approximately 35% more cases were concluded in nineteen eighty-three than in the previous year. However, new complaints were received at a faster rate than prior cases could be closed, creating record high case loads for enforcement officers. In spite of increased efforts to meet this demand, delays in the assignment and investigation of new cases were unavoidable, and the awareness of the anxiety that such delays can create for both complainants and respondents has been a source of serious concern to the Commission.

Special Programs

In 1983, the Commission approved thirteen special programs, all of which involved employment programs. These programs were initiated by private sector employers, special interest groups, and federal and provincial government departments. The target groups designated included Native persons, women, physically handicapped, persons on social assistance, immigrants and students/youth.

Staff

Two major staffing developments occurred during 1983: the acquisition of a Chief Enforcement Officer and the introduction of the concept of job-sharing.

The appointment of a Chief Enforcement Officer was of major importance to the Commission. As a result of organizational changes intended to increase the efficiency and effectiveness of the Commission's operation, the task of enforcement Supervisor had fallen upon the Executive Director in addition to her other responsibilities. This dual responsibility was too burdensome to be continued indefinitely. When Human Rights Officer Rose Cuddy left the Commission to further her education, permission was sought and obtained to fill the vacancy with a Chief Enforcement Officer.

After a competition that attracted more than 90 applications from across Canada and the United States, Mariann Burka was appointed to the post. A former officer with the Manitoba Human Rights Commission who subsequently became a lawyer, Ms. Burka brings both experience and high order of personal and professional skills to the position.

The concept of shared jobs was introduced with one of the Enforcement Officer positions being shared by Nancy Flintoft Meronek and Joanne Cameron, who subsequently left the Commission. At the end of the year the Commission was seeking a new half-time appointee.

Another personnel change was the appointment as Human Rights Enforcement Officer of Sharon Wickman, a seasoned officer with previous experience under the Manitoba Commission and the Canadian Human Rights Commission. This appointment filled a vacancy that had existed at the end of 1982.

Composition of Commission

Nineteen eighty-three saw a change of great significance in the nature of appointments to the Commission. In the past, all appointments had been for one year terms, renewable at the government's discretion. Although a similar approach is taken in many other Canadian jurisdictions, all Canadian commissions have expressed concern about the potential threat to their independence and effectiveness that this arrangement poses. If a change in government brings a wholesale replacement of commissioners, the resulting loss of continuity of experience is detrimental to the effectiveness of a human rights agency. Moreover, such occurrences create a public perception of political alignment on the part of the agency. Human rights commissions are often called upon to investigate complaints against their own governments, and they must be able to conduct those investigations free from real and perceived threats of government interference.

In response to urging by the Commission over several years, the Manitoba Government structured the 1983 appointments in a way that strengthens the Commission's real and apparent independence. One-third of the Commissioners were appointed for three-year terms, one third for two years, and one-third for a single year. Future appointments will (except for replacements) be for three-year periods. Although this arrangement is still just a matter of practice, it is hoped that it will eventually receive legislative sanction.

Only two changes took place in the membership of the Commission in 1983. Because of the pressure of other work, Commissioner Denis Allard requested that his appointment not be renewed. He was replaced by Hélène Bulger of St. Boniface. Commissioner Sally Shrofel, who made important contributions as a member of the Executive Committee, as well as Chairperson of the Education and Employee Benefits Committees, resigned in August to take up an academic post in Regina. Wayne Courchene, of Winnipeg, was appointed in her place. Commissioner Claudia Wright took over Commissioner Shrofel's responsibilities on the Executive Committee and as Chairperson of the Education Committee.

National Liaison

The Manitoba Human Rights Commission is linked to two important national organizations concerned with human rights.

The Canadian Association of Statutory Human Rights Agencies is a co-ordinating body of all human rights commissions in the country. It meets annually to share experiences and ideas. The Chairperson of the Manitoba Commission, Dale Gibson, is also the President of CASHRA for 1983-84. The annual meeting of the organization will be hosted by the Manitoba Commission in Winnipeg in late May 1984.

Another important national liaison organization is the Federal/Provincial/Territorial Continuing Committee of Officials Responsible for Human Rights. This Committee is responsible, among other things, for monitoring Canada's compliance with the various international conventions relating to human rights to which Canada is a party. Although the Commission is not formally connected with the Committee, the Chairperson has been appointed by the Attorney-General to represent Manitoba on the Committee, assisted by the Executive Director. They both serve on some of the Committee's working groups, and Mr. Dale Gibson chairs the new working group on human rights education. Commissioner John Lane chairs another new working group, concerned with the rights of the disabled.

Regional Offices

The Commission's principal office is in Winnipeg. It also maintains a regional office at The Pas. The remainder of the province is served from those two bases. A toll-free telephone line connects our office in Winnipeg with all parts of the province (1-800-282-8069), and human rights officers will travel anywhere within the province their services are required. The Commission is well aware, however, that more regional offices are needed if areas distant from Winnipeg and The Pas are to be served as well as they should. Until now, fiscal constraints have prevented the establishment of additional offices.

Late in 1983 the Commission managed to acquire office space in Brandon. Although we currently lack the professional staff necessary to station an officer in Brandon on a full-time basis, the Commission plans to operate the Brandon Office, on a part-time basis. A public announcement is expected to be made early in the new year describing the details of the new arrangement.

New Legislation

The Human Rights Act has served the cause of human rights protection in this province reasonably well, but experience with its administration since 1974, when the last major revision took place, has shown the need for many changes and improvements. The pioneering legislation of Ontario, upon which the Manitoba Act was modelled, has now been replaced by a more sophisticated code of human rights, and Quebec has recently adopted an even more effective law. If Manitoba is to maintain its reputation as a place where human rights are well protected, it is necessary that our legislation also be brought up to date.

When the present Chairperson of the Manitoba Human Rights Commission was appointed in February 1982, it was with a mandate from the Attorney-General, among other tasks, to supervise the design of improved legislation for this province. A special committee of the Commission was struck in the summer of 1982 to carry out this challenging assignment.

The legislation committee drew assistance from many sources. It began with proposals prepared by members of a previous Commission committee, chaired by Vice-Chairperson Barré Hall. It studied the legislation of several other jurisdictions, notably Ontario, Quebec, and Canada, for comparative insights. The experience and ideas of our own staff were carefully considered. Human rights experts from other jurisdictions were consulted on particular aspects of the legislation. Authorities from other related departments of the Government of Manitoba were also consulted. During January 1983 public hearings were held in Winnipeg, Brandon, Steinbach, Beausejour, Thompson and The Pas, asking for public opinion about improving the legislation. The public response was good, more than 200 presentations being received, either at the hearings themselves or by separate written or verbal communications.

The product of these consultations, and of the legislation committee's lengthy internal deliberations, was a proposal for total revision of the Manitoba legislation, in the form of a new *Manitoba Code of Human Rights*. After scrutiny by the government of Manitoba, the proposal is expected to be made public early in 1984.

Employee Benefits Guidelines

A longstanding project of the Commission — to design guidelines for the application of *The Human Rights Act* to pension plans, insurance schemes, and related employee benefit arrangements — was brought closer to completion in 1983 through the efforts of a small committee chaired by Commissioner Shrofel. The work of the committee was interrupted by Ms. Shrofel's resignation in August. However, Commissioner Maureen Miller has now assumed responsibility for this project and it is anticipated that a final proposal will be reviewed by the Commission early in the new year.

Future Directions and Needs

The Commission is proud of the efforts of the staff who have been forced to "do more with less" in 1983. It is deeply conscious, however, that there is a point beyond which resources cannot be stretched by even the most imaginative management. That point has been reached, and the demands on the Commission continue to grow. The Commission needs more resources if we are to continue improving the protection of human rights in the province, much less to maintain the level reached in 1983.

Although the need is great for all phases of the Commission's work, it is specially important that funds be found for improved educational programs. The old adage that prevention is preferable to cure is very true in human rights work, and the prevention of discrimination begins with the elimination of discriminatory attitudes. This requires patient educational efforts on many fronts. Unfortunately, many forms of education are costly. While the total absence of an education budget in 1983 taught the Commission how to make use of inexpensive educational tools, it also taught us that a really satisfactory educational program cannot be woven from shoe strings.

The human rights of Manitobans are generally well protected, but there is no reason to be complacent. Indeed, there is reason to be concerned that the growing stresses of economic recession will create new occasions for discrimination. The Commission is hopeful that it will continue to have the wholehearted support of Manitobans in its attempts to confront those threats.

The Human Rights Library

The Commission has a human rights reference library which is located in the Winnipeg Office, 1007-330 Portage Avenue. The library is a valuable resource tool for Commission members and investigative staff. It contains information on human rights issues on the provincial, federal and international scene.

Although limited resources have affected our ability to maintain the library, it continued to be available to the public throughout 1983. It is of special interest to students who regularly make use of the specialized resource material the library provides. The library holds periodicals and reference materials.

In addition to the material mentioned above, the Commission is developing an audio-visual file consisting of 16 mm. sound films, and some audio-visual cassettes which are also available for the public.

The library, through the kind cooperation of the Canadian National Institute for the Blind, had the Act and Guidelines reproduced in braille and on audio tapes in 1981. These are currently being updated to reflect the most recent amendments, changes and additions to the Act and Guidelines.

A number of films are worth mentioning here but members of the public are invited to contact us regarding their specific needs.

The film "Buttonville," for which the Commission holds the exclusive rights to air the film in Manitoba, is available. It is a thirty minute film intended to bring a dramatic awareness of human rights issues into the grade school classroom. The film is accompanied by a Teacher's Guide containing a number of self-contained learning activities divided into two groups: Grades 1-3 and 4-6. (Video tape copies may be made for school use.)

The film "A Different Approach" presents a dramatic look at the physical barriers and types of discrimination that physically disabled persons encounter.

A film that is popular with teachers and students is "Eye of the Storm" which vividly portrays the effects of stereotyping through the medium of a Mid-Western grade school class experiment which uses eye colour to determine privileges.

Sexual harassment, perhaps the most recently identified area of sex discrimination, is addressed in two films owned by the Commission. "Workplace Hustle" and "Preventing Sexual Harassment" have been popular with both employer, employee and labour union groups.

The newest acquisition is a film entitled "See What I Say." The film focuses on the deaf community's exclusion from cultural events. The frustration felt about having limited access to the arts is presented through interviews and footage of a concert performance interpreted for the deaf through American Sign Language (ASL). The film depicts a bridging of the social gap between the hearing and the deaf.

Inquiries pertaining to the library should be directed to the switchboard.

Enforcement Report

The Human Rights Act **is provincial anti-discrimination legislation designed to protect Manitobans against discrimination. The Act specifically prohibits discrimination on the basis of race, colour, nationality, ethnic/national origin, sex, marital status, physical or mental handicap, age, family status, source of income, religion and political belief. It also contains general prohibitions against discrimination without reasonable cause and provides for the right of equality of opportunity with respect to employment on the basis of bona fide occupational qualifications. These provisions allow the Commission to accept and investigate complaints where discrimination may have occurred on the basis of group factors other than those specifically listed.**

Persons who suspect that they may have been a victim of discrimination are invited to contact the Commission's Development Counsellor and discuss their concerns. All calls are confidential and the Commission will not act without the caller's consent.

All complaints must first be examined to ensure that the issue falls within the jurisdiction and scope of the Act. (In some cases, concerns which do not fall within the parameters of the Act are examined under the "spirit of the Act" because of the human rights issues involved.)

An Enforcement Officer is assigned the incoming complaint and the Officer contacts the complainant to secure corroborating information and to get a signed complaint form.

The signed complaint form is served on the named respondent and a comprehensive investigation is conducted. This investigation is aimed at determining the facts of the matter and ensures the rights of both parties be fully protected. On conclusion of the investigation, findings are assessed. If the allegation is not substantiated, the complaint is dismissed. If it appears to be justified, attempts are made to resolve the matter by conciliation.

The conciliation stage is a process common to most Canadian Human Rights legislation. It allows for complaints to be resolved in an amicable fashion by the parties concerned without requiring the convening of a Board of Adjudication. All matters related to the conciliation stage are confidential to the parties involved.

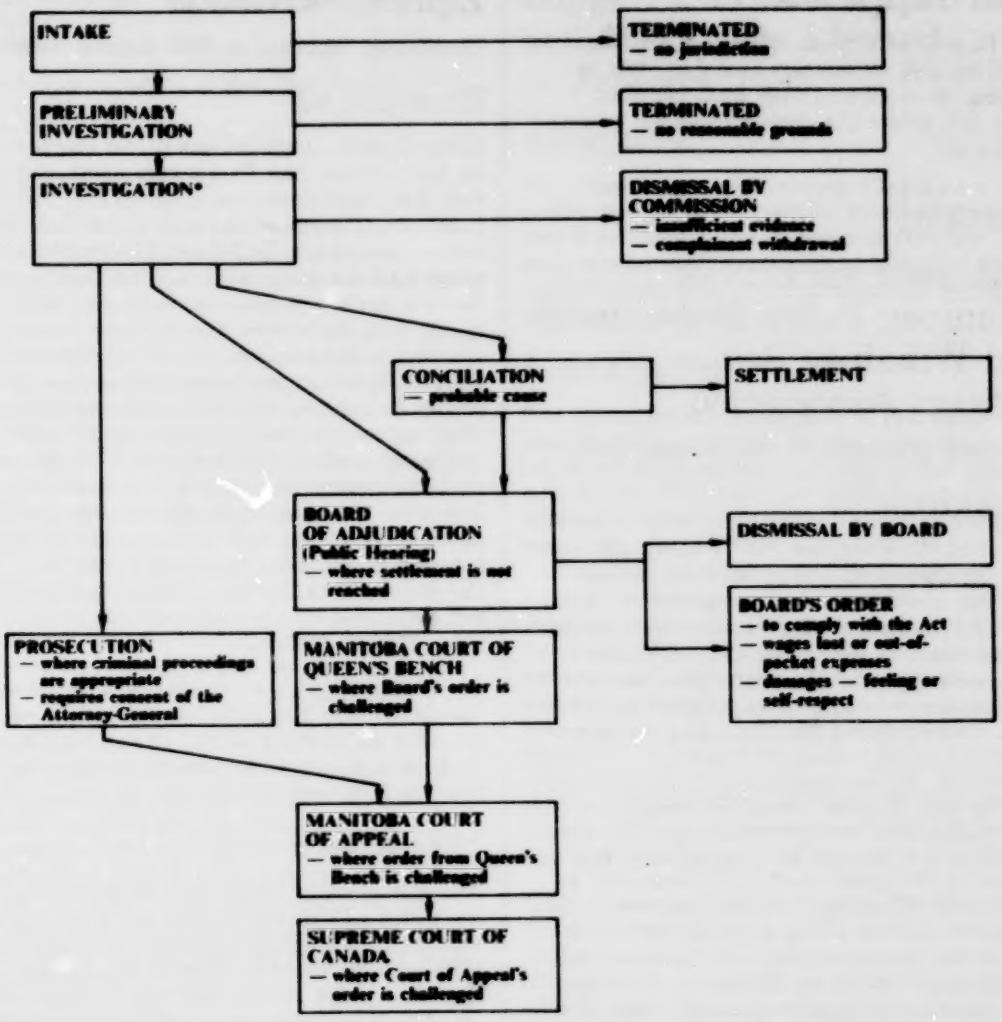
Should a complaint not be resolved through the conciliation stage, the matter is referred to the Commissioners, who may refer the complaint to the Attorney-General, to be determined by an impartial Board of Adjudication.

A Board of Adjudication is a formal public hearing where the complainant and the respondent present their arguments. Complainants and respondents have the right to be represented by legal counsel. Witnesses may be called and are subject to cross-examination. All testimony is taken under oath and witnesses may be subpoenaed. The Adjudicator, after hearing all the evidence, determines if a contravention of the Act occurred. If it did, the Adjudicator has the authority to make an order requiring the respondent to do such things as to cease and desist, to provide the denied service or employment, to pay lost wages or benefits or to pay for out of pocket expenses incurred by the complainant, or other damages.

If either party disagrees with an Adjudicator's decision he or she may file an appeal in the Court of Queen's Bench within the time limit set out in the Act. In some cases complaints may be appealed through the Courts to the Supreme Court of Canada.

In certain cases where criminal prosecution for violation of the Act appears appropriate, criminal proceedings may be launched, with the consent of the Attorney-General, under Section 33.

Usual Steps in Processing Complaints



** After investigation, the Commission may decide at its discretion not to pursue conciliation but to choose alternative routes of a Board of Adjudication or prosecution.*

Boards of Adjudication and Appeals

The Boards of Adjudication and Appeals listed include all matters heard in 1983 including those carried over from previous years but where the decision was not received until 1983.

Appeal

Finlayson vs. City of Winnipeg Police Department and Winnipeg Senior Officers Association

(Reported previously in 1982 Annual Report)

Background

Mr. John W. Finlayson filed a complaint alleging that he had been forced to retire from his position as Staff Inspector with the City of Winnipeg Police Department because he had reached the age of sixty (60). The evidence supported the allegation. No voluntary settlement could be negotiated and the matter was referred to a Board of Adjudication.

Adjudicator Marshall E. Rothstein, Q.C. dismissed the complaint on the basis that age constituted a reasonable occupational qualification for the position of Staff Inspector for the City of Winnipeg Police Department. He indicated that, in his opinion, it was reasonable to require an employee to be under the age of sixty (60) where the duties of the position constituted a safety risk and there existed no reliable test that could accurately predict the ability to perform safely and efficiently.

The Commission filed an appeal in the Court of Queen's Bench where it was heard and dismissed by Mr. Justice J. Hamilton. A subsequent appeal was filed in the Manitoba Court of Appeal but no decision had been rendered by the end of 1982.

1983 Update

In January, the Manitoba Court of Appeal delivered its decision. The appeal was dismissed in a two to one decision upholding the judgement of Mr. Rothstein and the Court of Queen's Bench.

Appeal

Ziprick vs. Clunis

(Previously reported in 1982 Annual Report)

Background

Edith Ziprick, a school bus driver employed by Don Clunis, had filed a complaint alleging that her employment as a school bus driver had been terminated because of her sex. The matter was investigated and the evidence supported the allegation. A satisfactory settlement could not be negotiated with the result that the matter was referred to a Board of Adjudication. Mr. W. C. Pearson, Q.C. of Brandon, was appointed by the Attorney-General to adjudicate the complaint. The hearing was held on January 19, 1982 and continued on February 11, 1982 and concluded on April 29, 1982. Mr. Pearson released his decision in October of 1982. In his decision he stated that he found that the allegation of sex discrimination as the basis for the dismissal of the complainant had not been substantiated by the evidence and he dismissed the complaint.

The Commission in reviewing this decision, concluded that the Adjudicator had failed to consider all of the evidence in reaching his decision and moved to appeal the decision to the Court of Queen's Bench.

1983 Update

The appeal came before Mr. Justice Hewak of the Court of Queen's Bench at the sittings of the Western Judicial District in Brandon, Manitoba on Tuesday, May 3, 1983. The appellate judge stated that the evidence was capable of supporting the Adjudicator's decision that the termination of employment was not by reason of sex of the complainant and he dismissed the appeal.

Board of Adjudication

McDonald vs. Knit-Rite Mills

(Previously reported in the 1982 Annual Report)

Background

Irene McDonald, a cutter-spreader employed by Knit-Rite Mills, had filed a complaint alleging that she had been placed in a lower classification than male employees and was receiving a lower rate of pay because of her sex. The matter was investigated and the evidence supported the allegation. A satisfactory settlement could not be negotiated and the matter was referred to a Board of Adjudication. Professor Jack London was appointed by the Attorney-General to adjudicate the complaint and the hearings began in December 1982.

1983 Update

The Board of Adjudication concluded the hearings early in 1983 and, in December, Professor London delivered his decision. He found that the complainant had been a victim of systemic discrimination in that the sex of a worker in the cutting room had been a determining factor in starting rates of pay, job assignments and pay increases prior to introduction of the classifications and that the classification had directly resulted from these earlier forms of sexual discrimination. He therefore ruled that the classification of Ms. McDonald and a subsequent lay-off had been discriminatory.

He ordered that Knit-Rite Mills pay to Irene McDonald the amount of wages lost as a result of the lower classification; that she be compensated for wages lost during the period she was laid off; and that she be reinstated in the higher classification.

Knit-Rite Mills Limited has filed an appeal against this decision in the Court of Queen's Bench but by the end of the calendar year the matter had not yet been heard.

Board of Adjudication

Legge vs. Princess Auto and Machinery Limited — January 1983

Allegation

Ms. Mary Legge of Winnipeg filed a complaint against her employer, Princess Auto and Machinery Limited, alleging that she had been denied continued employment as a file clerk because of a physical handicap (chronic asthma).

Investigation

The investigation revealed that the complainant had been employed by the respondent for about fourteen months prior to her termination. Her employer had instructed her to operate a name plate press located in a dusty warehouse office. When she attempted to operate this machinery, the dust aggravated her chronic asthma. She subsequently provided management with a medical certificate confirming that dusty conditions aggravated her asthmatic condition. She requested management relocate the machine to a dust-free area so that she could carry out her duties. Management responded by having the office cleaned. They advised the officer that they had asked the complainant to try and work in the cleaned office but she refused. She was subsequently terminated.

Since the investigation revealed that her termination was directly related to her chronic asthma, conciliation was attempted. However, the matter could not be resolved. The Commission therefore requested the Attorney-General appoint a Board of Adjudication to hear and decide the complaint.

Decision

Mr. Jack M. Chapman, Q.C. of Winnipeg was appointed as a Board of Adjudication in this complaint. The hearings took place in Winnipeg on January 17, 18, and 27, 1983. In his decision dated February 25, 1983, Mr. Chapman dismissed the complaint. He noted that the employer had responded to Ms. Legge's condition and attempted to accommodate her by cleaning the dusty office. The complainant, however, had refused to even try to work in the cleaned office. By refusing to do so, he determined that it could not be established that her asthma would have acted up in the cleaned office. He explained in his decision that in order to sustain a finding of discrimination against the respondent it would

have been necessary for him to conclude that working in the partitioned area of the warehouse would have constituted a danger to the complainant's health. Since he could not conclude this on the basis of the evidence his only alternative was to determine that working in the area was not a danger to her health. Therefore her termination had not resulted because of her physical handicap.

Board of Adjudication

Manitoba Food and Commercial Workers Union vs. Canada Safeway Limited — February 1983

Allegation

The Manitoba Food and Commercial Workers Union filed a complaint against Canada Safeway Limited alleging that the respondent's "no beards policy" discriminated against male employees who wore beards on the basis of their sex.

Investigation

The investigation revealed that the respondent's "no beards policy" required all male employees to be clean-shaven and that beards and goatees were prohibited. The company denied that the policy was discriminatory and maintained that they had the right to set regulations for its employees. It was also determined during the investigation that the same "no beards policy" had been the subject of a union grievance which had been pursued to the Supreme Court of Canada. The investigation revealed, however, that despite the previous action, the issue of whether the policy constituted sex discrimination had not been examined and therefore the Commission was not barred from examining the complaint.

Since the investigation revealed that such an onerous requirement only applied to male employees, conciliation was attempted but could not resolve the issue.

The Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the matter.

Decision

Professor Freda M. Steel of Winnipeg was appointed as a Board of Adjudication to hear this complaint. Hearing dates were held on February 28 and March 1, 1983. Professor Steel delivered her decision on June 6, 1983.

Professor Steel ruled that Safeway's "no beards policy" was discriminatory and she ordered Canada Safeway Limited to rescind the policy requiring male clerks to be clean shaven. In reaching her decision, she concluded that the "no beards policy" imposed a standard of appearance which affected males both on and off the job. She stated that a dress or grooming code must be applied equally to men and women and must not differentiate between the sexes by requiring more from one sex than another. Since the policy constituted an unwarranted intrusion into the personal life of male employees, an intrusion she noted to which women were not subjected, she determined that such a policy constituted differential treatment on the basis of sex.

The respondent appealed the adjudicator's decision. The matter was heard in the Court of Queen's Bench on November 7, 1983, however, by year's end, the court had not handed down its decision.

Board of Adjudication

Monk vs. Dakota I.G.A. et al — March 1983

Allegation

Ms. Mabel Monk, of Winnipeg, filed a complaint against her employer, Dakota I.G.A. Store alleging that her employment as head cashier had been terminated because of her family status contrary to the Act.

Investigation

The investigation determined that Ms. Monk had been employed by the store for approximately twenty-two months as head cashier prior to her termination. Her employer, had provided her with a letter of reference at the time of her termination in which was stated in part that she had been "a conscientious and loyal employee who performed any tasks assigned to her with the utmost efficiency."

The respondent advised the complainant had been terminated because the respondent believed that a conflict of interest existed between her husband and the company. The investigation determined that the respondent had prior to the termination, bought out the existing shares from the other stockholders, one of whom was the complainant's husband. Financial problems ensued and the former stockholders took legal action to recover the money from the respondent. It was because of this situation and her close relationship with one of the stockholders (her husband)

that resulted in her being terminated because of her family status. Because her allegation was substantiated, conciliation was attempted but was unable to resolve the complaint. The Commission then requested the Attorney-General to appoint an adjudicator to hear and decide the complaint.

Decision

Mr. Paul S. Teskey, of Winnipeg, was appointed as a Board of Adjudication. The complaint was heard on March 3 and 4, 1983.

Mr. Teskey ruled that Ms. Monk had been dismissed primarily because she was the wife of Mr. Monk. He concluded that his family status relationship was the reason for the respondent's fear of a conflict of interest but he also determined that there was no reasonable basis for this concern since Ms. Monk had access only to limited information and the respondent was in a position to control the kind and amount of information available to her. He recognized that there is a natural apprehension that a husband and wife might discuss all matters but noted that there was no evidence to indicate that this was the case between Ms. Monk and her husband.

Mr. Teskey in making his order awarded Ms. Monk One Thousand Five Hundred and Eighty-Four Dollars ($1,584.00) for one month's pay in lieu of notice (lost wages).

Board of Adjudication

Osborne vs. Inco Limited — June 1983

Allegation

Mr. Wayne Osborne of Thompson, Manitoba, filed a complaint against his employer, Inco Limited, alleging that he had been discriminated against in the terms and conditions of his employment by the company because of his religion.

Investigation

The investigation revealed that Mr. Osborne had worked for the company for six years as a driller. During his period of employment he had become a member of the Seventh Day Adventist Church. In doing so, he accepted the church's teaching that work was not permitted on the Sabbath and that the Sabbath commenced at sundown on Friday and terminated on sundown Saturday. Mr. Osborne, on becoming a member of the church, requested that management change his shift to enable him to finish work before sundown on Friday in order to accommodate his religious belief. The company had done this for two other employees in the past.

Management, in responding to Mr. Osborne's request, stated that they were not able to accommodate him at that time as it would be disruptive and cause the company undue hardship.

Mr. Osborne, faced with the choice of going against his religious principles or losing his job, absented himself from work without company permission on four occasions (on four Sabbaths) and was terminated during the course of the investigation. Since the evidence indicated that Mr. Osborne had been terminated because of the company's refusal to accommodate his religious belief, conciliation was attempted but it was unsuccessful.

The Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decision

Mr. Jeffrey James Oliphant, Q.C., of Dauphin, Manitoba, was appointed as Board of Adjudication in this matter. The hearing was held in Thompson, Manitoba on June 21 and 22, 1983.

Mr. Oliphant, in his decision released on August 17, 1983, ruled that *had* the company accommodated Mr. Osborne's request for a shift change by allowing him the same arrangements that had been made for two other employees in the past, it would have resulted in a situation of decreased safety, increased cost and decreased efficiency to the company. As a result he determined there had been no contravention of *The Human Rights Act* by the company and he dismissed the complaint. (The complainant has subsequently filed an appeal but by the end of the calendar year the appeal had not been heard.)

Board of Adjudication

Hofer vs. R.M. of South Cypress — June 1983

Allegation

Mr. John Hofer, of the Treesbank Hutterite Colony, filed a complaint against the Rural Municipality of South Cypress alleging that the Colony had been denied permission to build a piggery on their property because of their religious convictions.

Investigation

The investigation determined that the Colony purchased a sixty acre parcel of land for the express purpose of building a piggery. Because of concerns for possible pollution, they had initiated contact with the Department of Health and Environment and the Provincial Agricultural Engineer. Plans and specifications were drawn up as a result of these consultations, for a lagoon system to be constructed close to the piggery thus avoiding any problems of pollution. Application was then made to the Rural Municipality of South Cypress for a variation allowing the Colony to build a piggery on the proposed sight. Council, at a regular meeting, passed a conditional use of land granting Hofer and the Colony permission to build the piggery. Shortly after this meeting, public concern and objections were expressed despite the fact the meeting had been advertised in the normal fashion. Council held a second meeting a week after the first. Despite confirmation by the respective provincial technical experts that the piggery would not cause pollution to the Souris River, the Council reversed their earlier approval and referred the request for variation to the Cypress Planning District Board who subsequently denied the approval. In addition to the above unusual sequence of events, the investigation revealed that other members of the community (non-Hutterites) regularly grazed livestock on the river causing a higher pollution potential. It appeared that the same strict controls as applied to the Hutterite Colony were not applied to these members of the community.

Since religion appeared to be an element in the differential treatment, the Commission attempted to resolve this matter through the conciliation process. A settlement was not forthcoming and the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decision

Mr. Douglas A. S. Paterson of Brandon, Manitoba was appointed to hear and decide the complaint. He heard a preliminary motion on June 22, 1983 concerning the question of jurisdiction. Counsel for the municipality argued that the granting of a conditional use was not a service to the general public. Mr. Paterson concluded that the wording of Section 3 of *The Human Rights Act* was not broadened so that it included such services as the granting of conditional use until June 1982. He ruled that the wording of the Act in effect in 1980 must apply to the case at hand. Since the 1980 wording did not cover the situation before the Board, Mr. Paterson ruled that he had no jurisdiction to proceed.

Board of Adjudication

Vogel vs. Government of Manitoba — June 1983

Allegation

Mr. Chris Vogel of Winnipeg filed a complaint against his employer, the Government of Manitoba, alleging that the "Government of Manitoba Employee Dental Plan" unfairly discriminated against himself and other employees who were homosexual, because the definition of a spouse employed in determining eligibility for benefits is "of the opposite sex." Mr. Vogel alleged that the plan was discriminatory on the basis of sex (male), marital status (status of having a spouse of the same sex) and sexual orientation (homosexual).

Investigation

The Civil Service Commission acknowledged that it had been exercising its administrative prerogative over the dental plan when it restricted eligibility to "spouses of the opposite sex" for the Government of Manitoba Employee Dental Plan. It was also confirmed that should the complainant submit a claim for other than his personal dental claims that such a claim would not be accepted for payment by the insurance carrier.

The investigation confirmed that the Government of Manitoba Employee Dental Plan restricted benefits to spouses of the same sex and substantiated the allegations of the complainant that his spouse who is also a male was denied spousal benefits because they were both of the same sex.

An attempt was made to resolve the matter through the conciliation process. This was unsuccessful with the result that the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decision

Marshall E. Rothstein, Q.C. of Winnipeg was appointed to hear and decide the complaint. The matter was heard on June 28, 1983 in Winnipeg and on August 23, 1983 Mr. Rothstein delivered his decision.

Mr. Rothstein ruled that the denial of dental benefits to the complainant's spouse under the dental services plan by the Government of Manitoba did not constitute a contravention of *The Human Rights Act* and he dismissed the complaint. In reaching his decision, he examined the matter on each of the

grounds of sex, marital status and sexual orientation. He concluded that sex did not apply as it refers only to discrimination on the basis of gender and does not cover a person's sexual orientation and preference. He determined that marital status did not apply in that the definition either expressly or impliedly refers only to heterosexual relationships and that the word spouse only refers to relationships between a man and a woman. He concluded that sexual orientation is not covered under Section 6 of the Act and that for him to rule that the Act covers homosexuality or sexual orientation would be to legislate in an area that the legislation does not intend.

Board of Adjudication

Loveday vs. Baker Manufacturing Limited — September 1983

Allegation

Mr. A. Rey Loveday, of Winnipeg, filed a complaint against his employer, Baker Manufacturing Limited, alleging that he had been discriminated against and his employment terminated on the basis of a physical handicap relating to a former back injury and that the respondent company had a policy to terminate employees with physical handicaps when the employee was otherwise fully qualified to perform the duties in question.

Investigation

The investigation determined that Mr. Loveday worked approximately two months with the respondent company prior to being terminated. The reason given for his termination was because he failed the company medical due to a back injury that he had obtained while working for another employer in 1980. The company had a procedure which required all employees to undergo medical examinations by their family physicians. The completed forms from this examination were forwarded to the company's head office in the United States for review. In the complainant's case, the respondent's insurance company did not feel that the complainant could be covered under the group insurance plan because of his previous back injury.

The company reported that the complainant's work performance during the two month period he was employed was satisfactory and he had no problems in performing his job requirements.

An examination of the medical report submitted by his doctor to the company in compliance with their policy revealed that his doctor felt that it was advisable that the complainant avoid heavy lifting. A medical opinion secured by the Commission in the course of the investigation contradicted this first opinion by stating that the complainant would be capable of carrying out his original job, considering the absence of very heavy lifting demands and his knowledge of back mechanics and back protection techniques in the workplace.

Since the investigation indicated that the complainant had been terminated from his position solely because of his back injury and because the Commission was concerned that no attempt had been made to accommodate the complainant, conciliation was attempted. Conciliation was unsuccessful with the result that the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decision

Mr. Jack M. Chapman of Winnipeg was appointed as Board of Adjudication to hear and decide the matter. Hearing dates were held on September 20 and 21 and November 8, 1983. By year's end, Mr. Chapman had not delivered his decision.

Other Legal Proceedings

During the calendar year, the Commission was involved in certain legal proceedings other than Boards or Appeals which resulted in decisions that had an important impact on enforcement procedures.

Court of Queen's Bench

Galbraith and Lylyk vs. Manitoba Government, Civil Service Commission and Department of Finance

Allegation

Mr. Jack Galbraith and Mr. Sam Lylyk, both of Winnipeg, filed complaints of discrimination against their former employer, the Department of Finance, alleging that they had been discriminated against and denied further employment by the Department because of their age. Mr. Lylyk also alleged in his complaint that he had suffered a loss of wages and benefits due to being compulsorily retired at age sixty-five (65).

Investigation

Both men had been former employees of the Department and had been forced into compulsory retirement when they reached their sixty-fifth birthday in accordance with the provincial policy in effect in 1981. Both men had indicated at that time that they did not wish to retire and had requested that they be allowed to continue to work, however they were both retired. On learning of the government's change in policy resulting from the *Newport vs. Manitoba Government* decision (reported in the 1982 Annual Report) both men re-applied to the Department. Mr. Lylyk was subsequently rehired but Mr. Galbraith was not. The government refused to consider rehiring Mr. Galbraith and also refused to consider any compensation for Mr. Lylyk for his losses that occurred due to lost wages and benefits when he had been compulsorily retired in 1981. The government took the position that the Commission was without jurisdiction and the complaints had been filed after the statutory time limit of six months had expired (see Section 19)1)). The Commission, on the other hand, maintained that the employer's refusal to employ the two men constituted a continuing contravention thereby bringing the matter within the Commission's jurisdiction. As this matter was not something that could be resolved through the conciliation process, the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decisions

Prior to a Board of Adjudication being appointed, the respondent proposed that a declaration from the Court of Queen's Bench be sought to determine the issue of jurisdiction. The Commission agreed to this procedure and Mr. Justice Hewak of the Court of Queen's Bench heard the matter. In his decision handed down on July 25, 1983, he ruled both the Lylyk and Galbraith complaints were untimely and that there had not been a continuing contravention in either case. He stated that the onus was on the complainants to file a complaint no later than the six months from the date of the respective contraventions.

Both complainants appealed the ruling. The appeals were heard in the Court of Appeal of Manitoba on October 26, 1983. On November 8, 1983, Phillip, J.A. dismissed the appeals on the basis that the time requirements of Section 19(1) of the Act are mandatory and both of these complaints were filed out of time.

Court of Queen's Bench

Application for Prohibition to prevent Commission from Investigating

Background

In early 1983 the Commission received a complaint alleging discrimination in employment against a Manitoba employer. The complainant, in addition to signing the human rights complaint, also filed a civil suit in the Court of Queen's Bench alleging wrongful dismissal. The respondent on being served with the complaint, refused to provide any information claiming that the issue before the Commission and the issue before the Court of Queen's Bench were a duplication of each other. The respondent maintained that the Commission's investigation into the complaint would prejudice the court action in the Court of Queen's Bench. The respondent then applied to the Court of Queen's Bench for a writ of prohibition to prohibit the Human Rights Commission from proceeding with its investigation on the matter pending the completion of the suit in the Court of Queen's Bench.

Decision

The matter was duly heard in the Court of Queen's Bench and the application for a prohibition against the Commission was dismissed. The judge did not give a written decision, but delivered his reasons for judgement from the bench. In his oral judgement, he based his decision on the argument that the issues of the lawsuit and in the human rights complaint were not precisely the same, and that there was no prejudice at the same time, at least at this stage. This decision allowed the Commission to proceed with its investigation which is currently under way.

Supreme Court of Canada

Intervention

Theresa O'Malley and the Ontario Human Rights Commission against Simpson Sears, Toronto

The Manitoba Human Rights Commission joined the Alberta Human Rights Commission and the Saskatchewan Human Rights Commission in intervening in the matter of Theresa O'Malley against Simpson Sears. Ms. O'Malley filed a complaint based on religious discrimination with the Ontario Human Rights Commission when she was fired for refusing to work on Saturdays. Working on Saturdays, she contended was against her religion. The matter was heard by a Board of Inquiry in Ontario and subsequently was appealed to the justice system in that province. The Ontario Human Rights Commission asked for leave to appeal the Ontario Court of Appeal decision before the Supreme Court of Canada.

The matter was heard before The Right Honourable Bora Laskin, Chief Justice of Canada, Mr. Justice McIntyre, and Madame Justice Wilson. In granting leave to appeal the case, the Chief Justice indicated that the court felt that it was a matter of national interest. The appeal was scheduled to be heard in 1984.

Sample Cases

The following cases are provided as an example of the types of issues, types of settlements, and reasons for dismissals that often come before the Commission. They are in no way indicative of the current case load nor do they represent any particular trends in terms of areas of complaint. It should be kept in mind that each complaint must be judged on its own merits and settlements outlined in the following pages should not be considered to be a "rule of thumb" or the current "norm."

Employment/Race, Ethnic/National Origin, and Marital Status

Allegation

The complainant, a white male, married to a Native Indian woman, filed a complaint alleging that he and his wife had been discriminated against and denied employment as apartment caretakers because of his marital status and his wife's national and ethnic origin and race.

Investigation

The investigation determined that the respondent had advertised in a local Winnipeg newspaper for a couple to work as caretakers in a Winnipeg apartment building. The job included a free apartment plus a salary of $375.00 per month.

According to the complainant, he had applied and following an interview by the owner he had been hired. He had reported for work the following day and had picked up the building keys from the owner's son. During his discussions with the owner's son he had been told by the son that it was policy to rent vacant apartments on a first come first served basis except if the prospective tenants were Native Indians. If they were, the son instructed him to "tell them anything but don't rent to them." The complainant had objected, pointing out that his wife was a Native Indian person. When the complainant got home after his first day his wife advised him that the owner had called and said that they did not have the job due to a mix-up. The reason given was that the owner's wife had hired someone else without the owner's knowledge prior to the owner hiring the complainant.

The respondent refused to meet with the enforcement officer throughout the investigation. The complaint form was served by mail but the respondent had refused to provide any rebuttal as was his legal right. In view of the absence of a rebuttal, the Commission decided that despite the respondent's refusal to cooperate, the allegation warranted a full examination. To accomplish this, the Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the matter.

Settlement

A Board of Adjudication was appointed but did not convene. The respondent finally acknowledged the complaint and agreed to settle the matter. The terms of settlement included a letter of apology and damages in the amount of $750.00 to the complainant. The file was then closed as settled.

Employment/Sex

Allegation

The complainant, a Winnipeg man, filed a complaint alleging that he had been discriminated against and denied employment as an "order desk clerk" because of his sex.

Investigation

The investigation determined that the respondent had listed an "order desk clerk" position with the Canada Employment Centre who in turn had referred him to the respondent on the basis of his qualifications. The respondent admitted to the enforcement officer that she had told the complainant that she was "looking for a girl." She advised the Commission that she had been ignorant of the law and had not intended to discriminate. The investigation revealed that a female had been hired and an examination of the complainant's qualifications revealed that the complainant met the job requirements as listed in the job bulletin.

Settlement

The investigation substantiated the complaint and conciliation proceedings were launched. The outcome was that the respondent provided the complainant with a letter of apology, a cash payment of $200.00 for injury to feelings and loss of self-respect and provided the Commission with a written declaration of compliance. All parties were satisfied with this resolution and the Commission closed the case as settled.

Employment/Physical Disability (Severe Allergies)

Allegation

The complainant, a Winnipeg man, filed a complaint against his Manitoba employer alleging that he had been terminated as a forklift operator because of his physical disability (severe allergies caused by excessive dust and fumes).

Investigation

The investigation established that the complainant had been employed as a forklift operator by the respondent for several years prior to his termination. It was not until the spring of 1982 that the complainant had complained to the company doctor of sharp headaches, and breathlessness from exertion which he believed were the result of an allergic reaction to dust, paint and silica fumes in the work environment. The complainant was sent home on paid sick leave and while on leave had been referred to and examined by several specialists. After an analysis of these collective medical opinions, the majority of which concluded that there was no clinical reason that prevented the complainant from returning to his duties, the company notified him in writing that he was to return to work. He refused despite an offer by the respondent to provide him with a special respirator which would eliminate the dust. However, he refused to wear it because it was uncomfortable. The investigation also revealed that he had never requested a transfer to any other types of duties.

Disposition

The evidence in this case revealed that the company had attempted to accommodate the complainant on learning of his disability by removing him from the workplace, sending him for medical examination by specialists and offering to provide him with a special respirator. His continued refusal to return to work and his refusal to try the respirator was determined to be unjustified. On this basis the Commission determined that his termination was not the result of discrimination and his complaint was dismissed as being without merit.

Employment/Sex (Sexual Harassment)

Allegation

The complainant, a seventeen year old Manitoba woman employed in a small grocery store, alleged that her employer had harassed her by grabbing and touching her body and asking questions of a very personal nature. She advised that, in spite of her protests, this behaviour had continued and she was therefore forced to terminate her employment. She filed a complaint alleging that she had been subjected to discriminatory conditions of employment because of her sex.

Investigation

Although the respondent denied the allegations, other female employees advised that they had been subjected to similar types of harassment. It was also determined that the complainant's school-work had begun to suffer at the time of the reported sexual harassment by her employer.

Conciliation

As the evidence appeared to support the complaint, the respondent was invited to consider a voluntary settlement of the matter. It was agreed that the Commission would be provided with a written declaration of compliance and the respondent paid the complainant $700.00 as compensation for lost wages and personal damages. The complainant also received a written apology. All parties indicated that this was a satisfactory resolution of the matter and the Commission closed the file as settled.

Employment/Race, Colour, Ethnic/National Origin

Allegation

The complainant, a black man from Barbados who had been employed as a sheet metal worker, filed a complaint against his employer alleging that he had been discriminated against and was the recipient of differential treatment on the basis of his race, colour, ethnic and national origin after he had been twice laid off before, and twice recalled after, a white co-worker who had less seniority than he had.

Investigation

The investigation determined that in the first instance of lay-off and recall, both the complainant and the white co-worker along with a number of employees both white and non-white had been laid off and subsequently recalled simultaneously. In the second lay-off and recall, again it was determined that the lay-off was simultaneous with that of a number of other employees. The records also revealed that recall was subject to an employee's individual abilities and expertise and not seniority and that the white co-worker's skills had been such that he had been recalled first on this second occasion. It was further established, however, that the complainant, while being recalled after the named co-worker had also been recalled ahead of a number of other white employees.

Disposition

The evidence did not support the allegation of discrimination on the basis of race, colour, ethnic/national origin. Employee ability and expertise were the criteria used in ordering recall not seniority. The investigation showed that all employees including the complainant had been subject to this non-discriminatory criteria. On this basis the Commission dismissed the complaint as being without merit.

Employment/Age (Compulsory Retirement)

Allegation

The complainant, a sixty-five year old male carpenter, filed a complaint against his employer and against his union alleging that he had been discriminated against and his employment terminated compulsorily because of his age.

Investigation

The investigation determined that the employer and the union had entered into a collective agreement which contained a provision requiring employees to be automatically terminated (retired) on attaining the age of sixty-five years. The same agreement provided for an extension but stipulated that employees lost all seniority on attaining age sixty-five. It was determined that the complainant had requested an extension two months prior to his sixty-fifth birthay but this had been denied and he was terminated when he turned sixty-five.

Conciliation

Conciliation was initiated because the evidence revealed that he had been terminated because of his age in accordance with the provisions of the collective agreement in effect. The company and the union agreed to revise the offensive and illegal clause relating to compulsory retirement in the collective agreement. The complainant was reinstated in his former position with no loss of seniority or benefits and all members of the union were notified of changes to the collective agreement. The complainant and the respondent indicated their satisfaction with this resolution and on this basis the Commission closed the file as settled.

Employment/Physical Handicap (Cerebral Palsy)

Allegation

The complainant, a male resident of Winnipeg who has suffered cerebral palsy since birth, filed a complaint against his employer, a Manitoba printing firm, alleging that he had been discriminated against and his employment terminated because of his physical disability (cerebral palsy).

Investigation

The investigation revealed that he had been employed by the respondent since 1980. During the period he was employed, he had missed excessive time from work requiring co-workers to "cover for him." He had damaged expensive equipment which cost the company considerable time and money but when confronted by management he denied his actions. In addition, he had difficulties getting along with other staff and had been reprimanded by the respondent for harassing female employees.

Disposition

In view of the investigation findings which showed that the complainant had been terminated for reasons other than his disability, the Commission dismissed the complaint as being without merit.

Employment (Hiring)/Treaty Indian, Family Status and Marital Status

Allegation

The complainant, a non-treaty Indian woman, filed a complaint alleging that she had been discriminated against and denied employment as a teacher's aide in a northern Manitoba school on the basis of her race and because she was not a treaty Indian.

Investigation

The investigation revealed that the successful applicant was single and a status Indian woman. The complainant, was a single parent, who had previously worked for the school division as a substitute teacher. A comparison of academic qualifications revealed that the successful applicant had higher academic qualifications than the complainant. Academic qualifications were the prime factor used by the school division in determining the successful candidate although it appeared that some members of the school selection committee had taken into consideration the complainant's non-treaty status and the fact that she was a single parent.

Settlement

Although the evidence indicated that the final hiring had been made on the basis of non-discriminatory criteria; the investigation had however exposed the fact that discriminatory information such as the applicant's marital and family status had been available to the committee during the selection process and had in fact been considered by some members. As this is contrary to the Act, conciliation was initiated with the result that the school division provided the complainant with a letter of apology and distributed a memo to all committee members outlining their responsibilities and obligations under the Act. All parties expressed satisfaction with this resolution and the Commission closed the file as settled.

Employment (Pre-Employment Inquiries)/ Age and Marital Status

Allegation

The complainant, a Winnipeg man, filed a complaint against a Winnipeg company alleging that the employer required applicants applying for a warehouse helper's position to provide information pertaining to marital status and age prior to hiring.

Investigation

The investigation revealed that the practice of asking prospective applicants to furnish information concerning marital status and age prior to hiring had been in effect by the respondent at the time and that this information had been asked of the complainant and other applicants for the warehouse helper's position.

Settlement

The investigation established that the allegation had been substantiated and therefore conciliation was initiated. A settlement mutually acceptable to all parties was agreed upon whereby the company's head office provided the Commission with a declaration of compliance and a copy of a directive to all company outlets stipulating that the practice of asking for information about an applicant's age and marital status prior to hiring was discontinued on receipt of the directive. On this basis the Commission closed the file as settled.

Employment/Sex (Sexual Harassment)

Allegation

The complainant, a single woman employed as a hostess in a Winnipeg restaurant, filed a complaint against her employer alleging that she had been discriminated against in the terms and conditions of her employment and forced to terminate her employment because of her sex in that her employer had subjected her to repeated and unwanted sexual comments.

Investigation

The investigation established that the owner had, despite the complainant's objections, continually made lewd and personal comments to her, requesting that she wear sexy

clothes with a lot of cleavage as well as requesting that she refrain from wearing a brassiere. When these comments and requests did not stop, the complainant terminated her employment. Not only had a number of other employees been aware of the treatment of the complainant by the owner, but some of the female employees admitted that they had been subjected to similar treatment by the manager. In addition a former female employee stated to the Commission that she had been harassed in the same fashion by the same manager.

Settlement

Conciliation was initiated on the basis that the allegation appeared to have been supported by the investigation findings. As a result, the respondent agreed to provide the complainant with a written apology and payment of a cash settlement of $300.00 as general damages for injury to feelings and loss of self-respect. Since the parties indicated that this was a satisfactory resolution, the Commission closed this case as settled.

Employment (Termination)/ Ethnic/National Origin

Allegation

The complainant, a newly-arrived male immigrant to Canada from England, filed a complaint with the Commission's Northern Office alleging that he had been discriminated against and his employment terminated for reasons based on his ethnic and national origin.

Investigation

The investigation revealed that the complainant was a landed immigrant who had recently immigrated from the United Kingdom to Canada. He was of English ancestry. He had been initially employed by a Northern Manitoba employer as an accountant for five months prior to his termination. An examination of his work record revealed that during this period of employment he made numerous errors in his work resulting in a substantial cost to his employer. At the time he was terminated, the respondent had advised him in front of witnesses that the reason for termination was because of his poor work performance due to the large number of costly accounting errors.

Disposition

The evidence did not substantiate the allegation that his termination was the result of his ethnic or national origin. Instead it revealed that the termination was the result of non-discriminatory reasons flowing from his on-the-job performance. The Commission therefore dismissed the complaint as being without merit.

Employment/Age

Allegation

The complainant, a Manitoba woman employed as an aide in a rural Manitoba hospital, filed a complaint alleging that she had been discriminated against and her employment terminated because of her age when the hospital compulsorily retired her when she reached sixty-five years of age.

Investigation

The investigation determined that the hospital had a compulsory retirement policy in effect at the time which had been applied to the complainant. This policy established that an employee was automatically retired on the last day of the month in which they turned sixty-five years of age. The complainant had requested a six month extension but the hospital board had denied her request. She had been terminated on the last day of the month in which she turned sixty-five in accordance with the policy.

Settlement

The investigation confirmed that her termination was based solely on age and conciliation was commenced. A settlement was reached whereby the complainant was rehired and received a cash payment of $1,774.55 for lost wages during the period that she had been unemployed. The hospital board deleted the compulsory retirement clause in their policy and provided the Commission with a written declaration of compliance. All parties indicated their satisfaction and the Commission closed the file as settled.

Housing/Source of Income (Social Assistance) and Without Reasonable Cause

Allegation

The complainant, a single female parent, filed a complaint alleging that she had been discriminated against and denied an apartment by a Winnipeg landlord without reasonable cause and because of her source of income.

Investigation

The investigation established that the apartment in question had been advertised in a local Winnipeg newspaper and was available at the time that the complainant applied. The complainant viewed the apartment in the presence of the caretaker and agreed to rent it. She had advised the caretaker that she was currently receiving social assistance and indicated that the Social Services Department would provide the necessary damage deposit. On learning this information, the caretaker had provided her with a form requiring the City of Winnipeg Social Services Department to guarantee payment of any tenant damages in excess of the standard damage deposit.

It was confirmed that the Social Services Department had provided the complainant with the necessary funds for the standard damage deposit but had refused to sign the contract making the Department responsible for possible excess damage claims. The records revealed that the complainant had submitted the damage deposit promptly together with a letter of application which included all necessary rental information and her rental history. It was confirmed that the complainant had been told by both the caretaker and the owner that her application was refused because the Social Service Department has refused to assume responsibility for possible future damage in excess of the allowable damage deposit.

Settlement

The investigation supported the allegation as filed by the complainant and established that a separate rental criteria had been employed by the respondent when renting to persons receiving social assistance. As this policy only applied to persons on social assistance, it was considered to be discriminatory. Conciliation was initiated and a settlement was negotiated that was mutually agreeable to all parties. The respondent agreed to pay to the complainant the sum of $200.00 as damages for injuries to her feelings and loss of self-respect and provided her with a letter of apology. The Commission therefore closed the file on this case as settled.

Housing/Age

Allegation

The complainant, a thirty-one year old Winnipeg man, filed a complaint against a Winnipeg landlady alleging that he had been discriminated against and denied the rental of a one bedroom house because of his age.

Investigation

The investigation revealed that the house had initially been listed with a local Winnipeg rental firm by the respondent's sister-in-law who had requested that young persons not be referred. The house had been available at the time that the complainant applied and it was established that he had been referred by the rental firm. The complainant had viewed the house in the presence of the owner and a verbal agreement was made whereby the complainant could rent the house and do some painting prior to moving in. The respondent admitted that she had subsequently changed her mind because she was fearful for her safety and felt that she would be more comfortable with older tenants. She then rented the house to an older couple and advised the complainant that he could not rent the house.

Settlement

Conciliation was initiated because the investigation established that the denial was based on the complainant's age. In negotiating an appropriate settlement however, consideration was given to the fact that exemplary damages would cause a severe hardship on the elderly respondent whose sole livelihood was derived from rental of the small house. The settlement accepted by the Commission was a letter of apology to the complainant and a declaration of compliance to the Commission. On this basis, the file was closed as settled.

Services — Dog Guide/ Physical Handicap

Allegation

The complainant, a legally blind man who relies on a dog guide, filed a complaint alleging that he had been discriminated against and denied services and facilities available to the public by a Winnipeg restaurant for reasons based on his handicap (blindness) and because he relied upon a dog guide.

Investigation

The investigation revealed that the respondent had denied the complainant the right to choose seating of his choice in the restaurant because he was accompanied by a dog guide and because the owner believed that other customers would not like to see a dog on the premises. It was also established that the owner had eventually allowed the complainant into the restaurant but had segregated him from other patrons because of the presence of the dog guide.

Settement

The investigation established discrimination had occurred in the initial denial and the subsequent segregation of the complainant by the respondent because of the presence of a dog guide. Conciliation was initiated and resulted in a mutually agreeable settlement. The complainant recognized the respondent's concern for the dog guide's safety within the enclosed confines of the restaurant. The respondent in turn acknowledged the complainant's right and need to have his dog guide accompany him and move freely within the restaurant. The respondent recognized the special relationship that exists between a blind person and a specially trained dog guide. The respondent provided the complainant with a letter of apology and the Commission with a declaration of compliance. On this basis, the Commission closed the file as settled.

Services/Physical Handicap (Blindness) and Without Reasonable Cause

Allegation

The complainant, a blind Manitoba man who relies on a dog guide, filed a complaint alleging that he had been discriminated against and denied access to the Assiniboine Park Zoo in Winnipeg because of his physical handicap (blindness) and without reasonable cause.

Investigation

The investigation revealed that on the day in question, a zoo attendant had advised the complainant that all dogs were denied access to the zoo because it was feared that they would frighten the zoo animals. As an alternative, a park attendant had offered to guide the complainant and his family provided the dog guide was left in the car. Subsequent to this, a park constable had reviewed the situation and allowed the complainant to enter the zoo area. The zoo officials in response to the investigation produced research studies which supported the contention that dogs, regardless of their training, frightened zoo animals by their scent alone. Documentation was received from various handicapped groups in the United States which presented evidence showing that dog guides were in danger themselves when allowed access to unrestricted areas in zoos where animals roamed at will.

Settlement

The investigation determined that the zoo appeared to be acting appropriately and was not discriminating when it denied access to the zoo to all dogs including dog guides. At the same time, the policy did deny blind persons with dog guides access to the Assiniboine Zoo facilities. Consequently, conciliation was initiated to resolve this latter problem with the result that the zoo agreed to provide sighted guides to all blind persons on request as well as providing adequate kennel facilities to dog guides. As this resolution was satisfactory to all parties, the Commission closed the file as settled.

Appendix A

The Commissioners

Dale Gibson — Chairperson

Born and educated in Winnipeg, Dale Gibson has been a professor of law at the University of Manitoba since 1959. He has written extensively on a variety of legal topics, including many aspects of human rights, and is a frequent commentator about constitutional affairs on radio and television. He served as a member of the Manitoba Law Reform Commission for several years, and has acted as constitutional consultant to both the federal and provincial governments.

Lawrie Cherniack — Vice-Chairperson

Lawrie Cherniack has practiced law in Winnipeg since 1976. Prior to that he was a Winnipeg city Councillor, community organizer and teacher.

Denis Allard

(Left Commission March 1983)

Denis Allard has been a union representative for twenty years with the Manitoba Food and Commercial Workers Local 832, Winnipeg. He has resided in St. Boniface, Manitoba for thirty years.

Regina Bueno

Regina Bueno is an L.P.N. and is employed as an Audio-Visual Technician at the University of Manitoba. She is on the Board of Directors of the Women's Culture Educational Centre and Harmony Funds Incorporated. She is involved in many other organizations concerned with human rights, is a community organizer and is committed to the principles of self-sufficiency.

Hélène Bulger

(Joined Commission April 1983)

Hélène Bulger is a resident of St. Boniface having been born and educated there. She served five years on the Board of the Caisse Populaire Précieux Sang, two years as President. She is past co-ordinator of the French Cultural Display and has been active in the past on a number of committees relating to the Franco-Manitoban community activities.

Wayne Courchene

(Joined Commission August 1983)

Wayne Courchene, born in Pine Falls, Manitoba, was schooled at the Fort Alexander Indian Residential School on the reserve until he migrated to Winnipeg in 1962 where he graduated from high school. He graduated from the University of Manitoba, and he is currently a volunteer on a number of community organizations, such as the Winnipeg Indian and Metis Friendship Centre and the Manitoba Association for Rights and Liberties. Mr. Courchene is presently working for the Assembly of Manitoba Chiefs in an organization called "The All-Chiefs' Budget Committee." He is Co-ordinator of a training program that is carried out in conjunction with the Budget Committee and New Careers. He was recently elected to the Urban Indian Association Board, a new Indian organization representing status Indians of urban Winnipeg.

Marek Debicki

Marek Debicki is a member of several civil rights organizations. He teaches Civil Rights at the University of Manitoba.

Unni Hordern

Unni Hordern is a physiotherapist and clinical instructor at the Brandon General Hospital. She has lived in Brandon since 1971. She has been a member of the boards of The Children's Aid Society and Westbran Work Activity Program. She is very active in The Canadian Physiotherapy Association.

John Lane

John Lane is a resident of Winnipeg. Trained as an engineer, he has been employed in a variety of fields and is currently the Executive Director of the Canadian Paraplegic Association (Manitoba Division). He is physically disabled with quadriplegia due to a spinal cord injury sustained in 1968.

Maureen Miller

Maureen Miller is a communications officer with the Canadian Union of Public Employees, Local 500. She holds a Bachelor of Arts degree from the University of Winnipeg and a Certificate of Education from the University of Manitoba. Ms. Miller is a vice-president of the Canadian Association of Labour Media and is active in equal rights committees of CUPE and the Manitoba Federation of Labour.

Jill Oliver

Jill Oliver came to Canada from England in 1957. She resided in Winnipeg from 1962 to 1969 when she moved to Prince Edward Island. She returned to Winnipeg in 1972 to study Political Science at the University of Winnipeg. She received her Law degree from the University of Manitoba in 1977 and was called to the Manitoba Bar in 1978. Ms. Oliver has practiced law in Winnipeg since 1978. She has been active in the women's movement since 1973 and is currently President of Family Services of Winnipeg Inc.

Maureen Penner

Maureen Penner of Birtle is a member of the Manitoba Metis Federation. Her involvement has been at the community and regional level in the area of culture, education, employment, alcoholism and communications. She is past Vice-President of the Dauphin Region and past Co-ordinator of Provincial Cultural Events with MMF.

Sally Shrofel

(Left Commission August 1983)

Sally Shrofel is a graduate of the University of Manitoba where she achieved a B.A., B.Ed., and M.A. She taught at Morse Place and Chief Peguis junior high schools in Winnipeg before graduating from the University of Toronto with a Ph.D. in Theoretical Linguistics. As well as her professional work as a Linguist, Dr. Shrofel is active in community affairs being past chairperson of the Manitoba Action Committee on the Status of Women, the Pension Reform Committee of the Age and Opportunity Bureau and a panel member of the United Way.

Frank Whitehead

Frank Whitehead is a resident of The Pas Reserve. He is President of the Otineka Development Corporation (shopping centre) and a Board Member for I.R. Corporation (trailer court). He is currently employed as the Project Manager for The Pas Work Activity Project, Human Development Program. He has been active in community development at the volunteer level, and as a member of The Pas Reserve Volunteer Fire Department.

Claudia Wright

Claudia Wright, B.A., M.A., Ph.D. is a professor of Political Science at the University of Winnipeg. She is Associate Dean of Arts and Science, Personnel. Claudia Wright is active in many organizations that are involved in human rights issues. She also has academic interests that compliment her commitment to civic education and participation.

APPENDIX B

TABLE 1

Total Intake Load Received 1979 — 1983

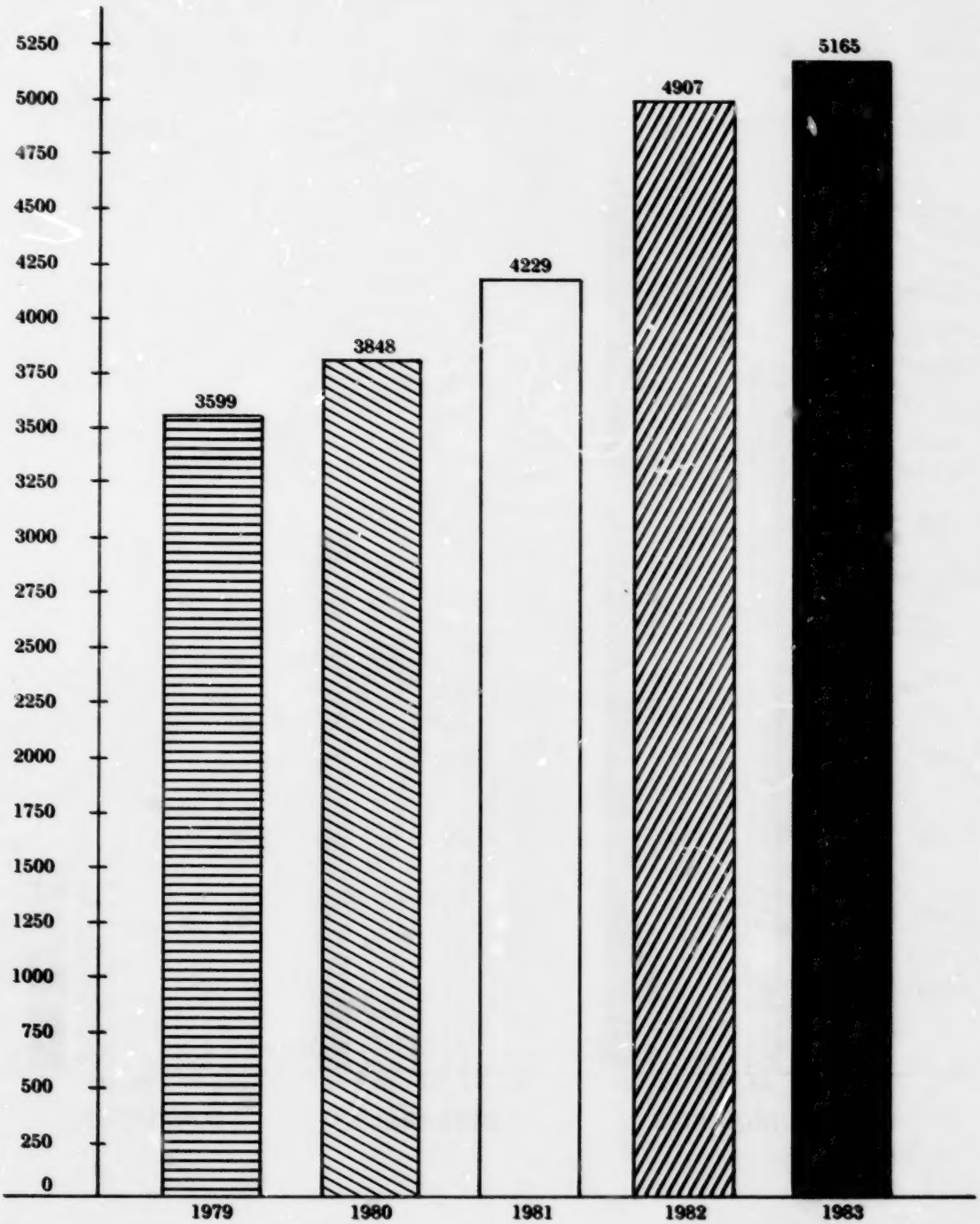


TABLE 2

Combined Intake Activities 1979 — 1983

	1979	1980	1981	1982	1983
Inquiries:	1872	2183	2670	3019	2913
Referrals:	1234	1269	1155	1367	1713
Complaints:	493	396	404	521	539
	3599	3848	4229	4907	5165

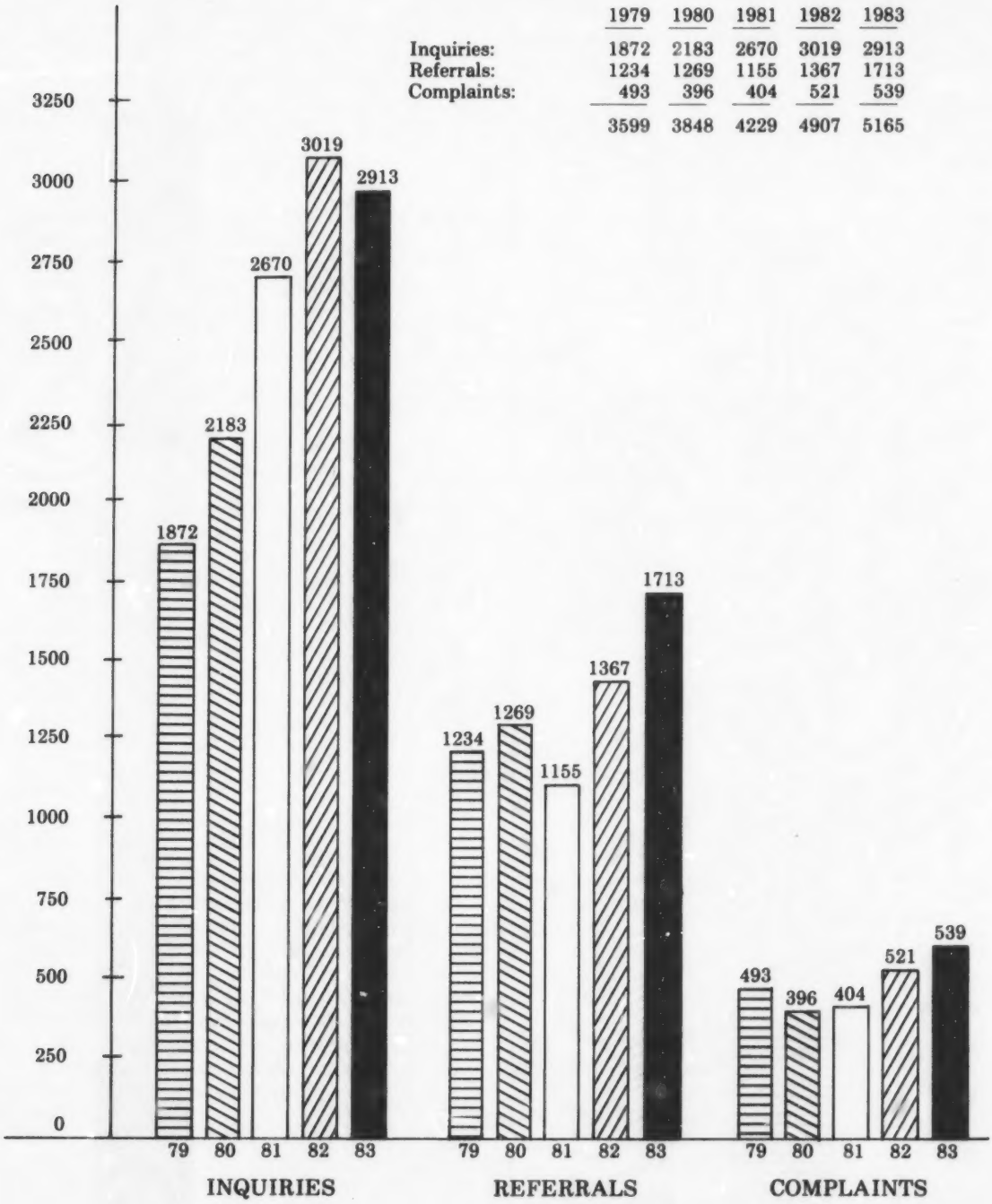


TABLE 3

Breakdown of Cases by Statutory Categories:

(Percentage of total cases received in 1983)

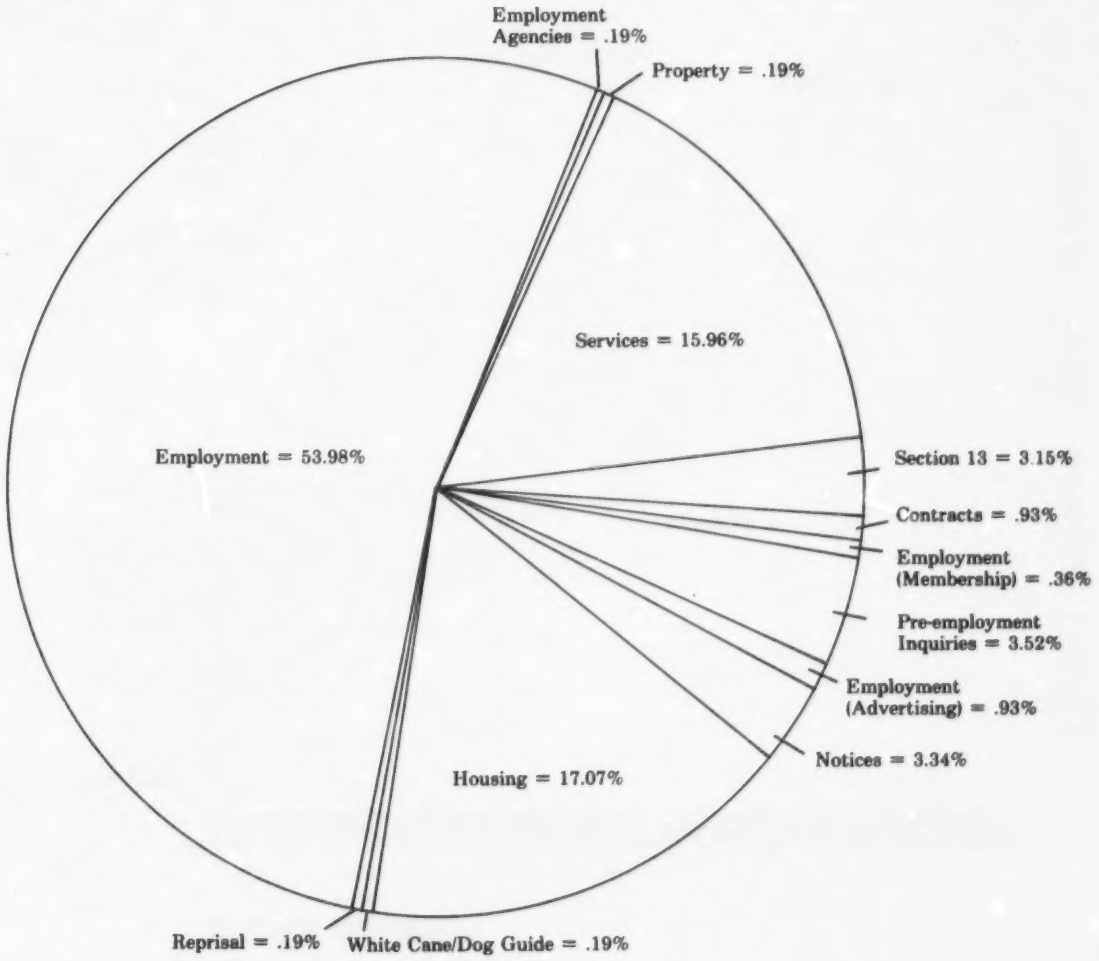


TABLE 4

Breakdown of Cases Received by Statutory Categories — 1981, 1982, 1983

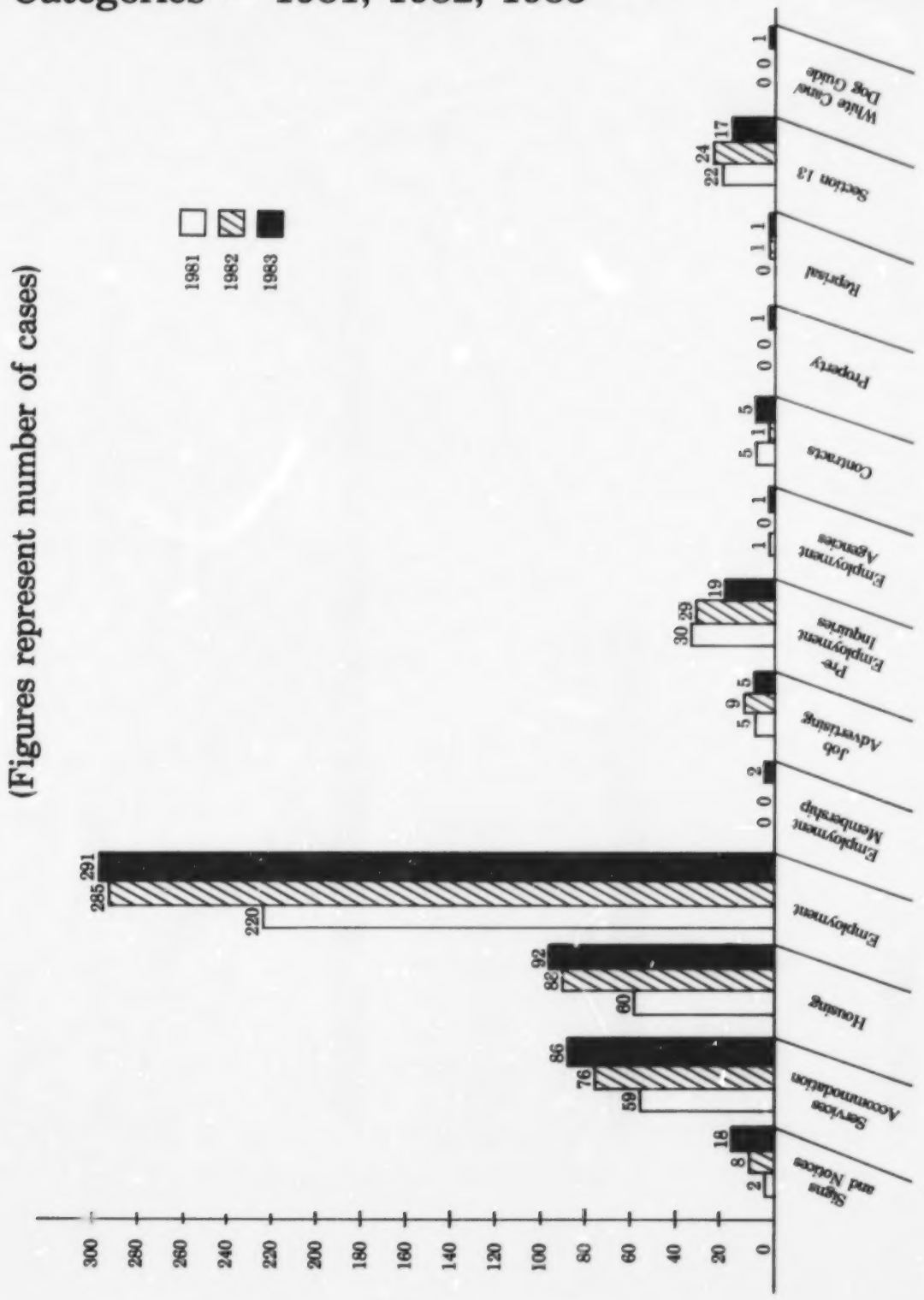


TABLE 5

Breakdown of Cases Received by Grounds of Complaint:

(Percentage of the total grounds of complaints received in 1983)

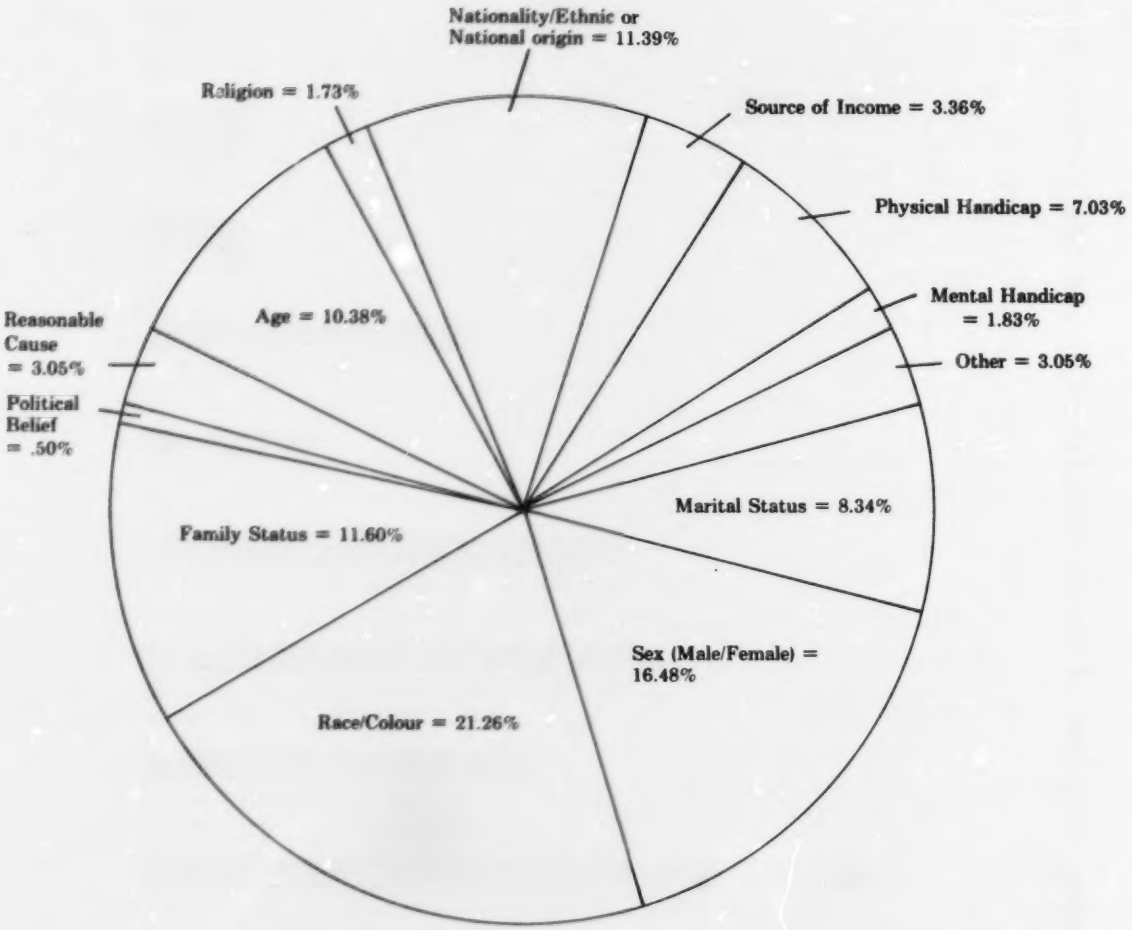


TABLE 6

Breakdown of Cases received by Grounds of Complaint — 1981, 1982, 1983

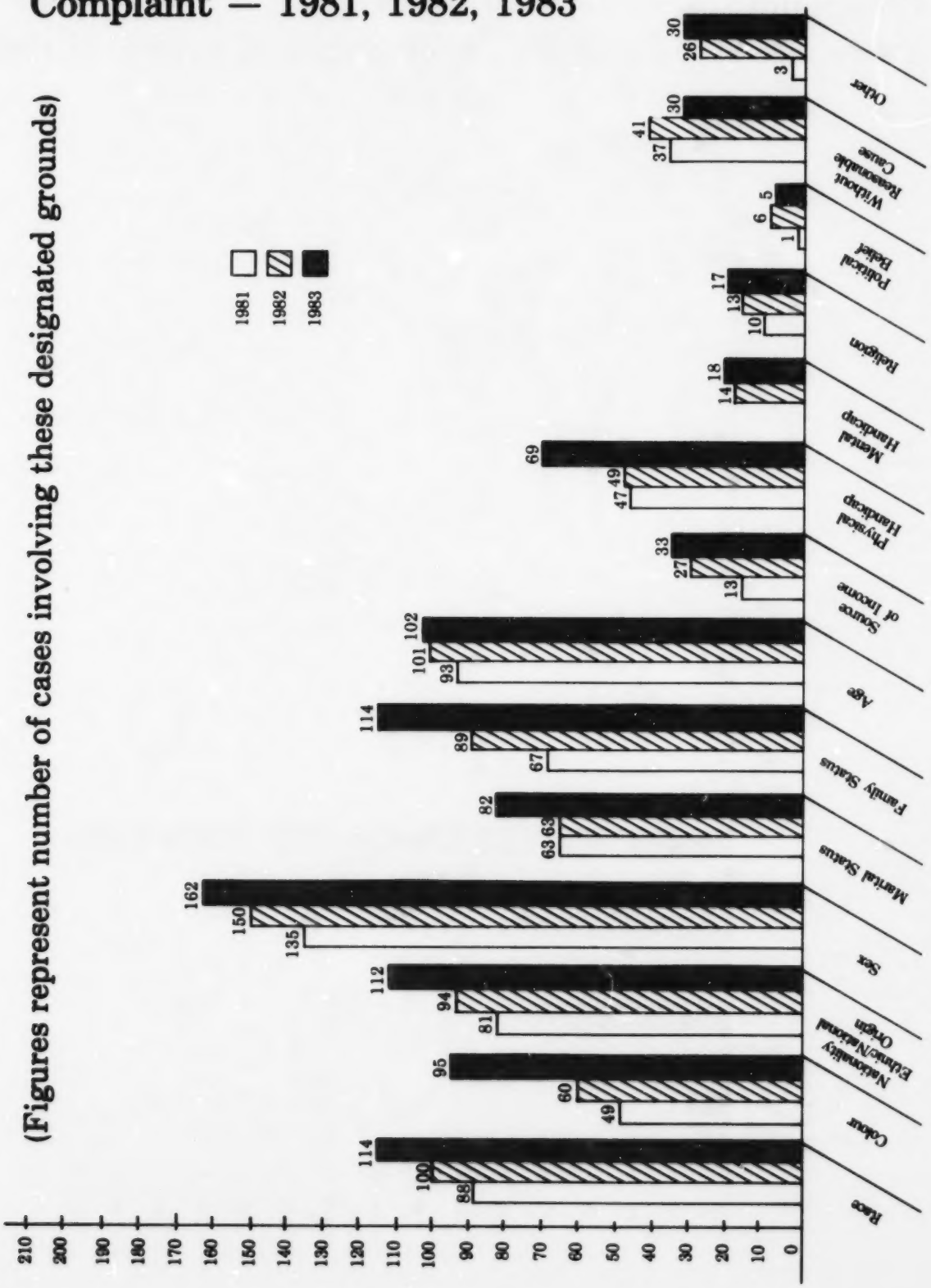


TABLE 7

Manitoba Human Rights Commission 1983 Year End Report

Breakdown of Cases Received by Statutory Categories and Grounds

	Race	Nationality	Religion	Colour	Sex		Marital Status	Family Status	Age	Ethnic, National Origin	Source of Income	Political Belief	Reasonable Cause	Physical Handicap	Mental Handicap	Other	TOTAL
					Male	Female											
Notices	8	1	5	7		1		2	1	4						1	30
Services	25	4	3	17	6	12	8	4	12	17			17	11	4	1	141
Housing	27	3	1	25	3	3	14	31	15	23	33		8	1	1		188
Property							1	1									2
Employment	46	8	5	42	11	97	39	65	53	45		4	5	45	11	15	491
Membership												1				1	2
Advertising	1			1	4	1	1		2	1						1	12
Pre-employment Inquiries					9	10	17	9	14	2				7	2	8	78
Employment Agencies					1	1	1		1								4
Contracts						2	1	2	2							1	8
White Cane/ Dog Guide														1			1
Reprisal																1	1
Section 13	7		3	3	1				2	4				4		1	25
TOTAL	114	16	17	95	35	127	82	114	102	96	33	5	30	69	18	30	983*

** This is an inflated figure as the total cases for 1983 was 539. The reason the figure is higher here is that many cases have more than one ground of discrimination.*

TOTAL CASELOAD = 539

TABLE 8

Manitoba Human Rights Commission

1983 Year End Caseload Report

	Brought Forward	New Cases	Settled	Dismissed	Section 13 Resolved	Not Pursued	Closed by Board/ Prosecution	Undisposed
Notices	3	18	2	7		5		7
Services	42	86	12	27		32	1	56
Housing	34	92	14	31		43	1	37
Property	0	1						1
Employment	168	291	35	120		109	5	190
Membership	0	2		1				1
Advertising	2	5	5			1		1
Pre-employment Inquiries	11	19	14	2		5		9
Employment Agencies	1	1		1				1
Contracts	0	5				1		4
White Cane/Dog Guide	0	1	1					0
Reprisal	1	1	1					1
Section 13	12	17			13	7		9
TOTAL	274	539	84	189	13	203	7	317

TABLE 9

Distribution of Complaints Received

By Geographical Location

Brandon Region (Winnipeg Office)

Brandon	22
Dauphin	3
McCreary	1
Roblin	2
Russell	1
Swan River	3
Virden	3
	35

The Pas Office

The Pas	5
Flin Flon	4
Gillam	2
Grand Rapids	1
Lynn Lake	5
Norway House	1
Thompson	15
	33

TOTAL = 539

Winnipeg Office

Winnipeg	431
Altona	1
Ashern	1
Birds Hill	1
Bissett	1
Carman	1
Fisher Branch	1
Gilbert Plains	1
Headingley	1
Hodgson	1
Landmark	1
Manigotogan	2
Morden	1
Morris	1
Niverville	1
Oakbank	1
Pansy	1
Pinawa	1
Pine Falls	1
Piney	1
Portage la Prairie	7
Prada	1
Riverton	3
Sandridge	1
Selkirk	2
Steinbach	1
Stonewall	1
Teulon	1
Tyndall	1
Vermette	1
Waasagomack	1
	471

APPENDIX C

THE HUMAN RIGHTS ACT

being

CHAPTER H175

of the

CONTINUING CONSOLIDATION OF
THE STATUTES OF MANITOBA

OFFICE CONSOLIDATION

NOTICE

All persons making use of this consolidation are reminded that it has no legislative sanction; that the amendments have been embodied only for convenience of reference; and that the original Act should be consulted for all purposes of interpreting and applying the law.

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CHAPTER H175

THE HUMAN RIGHTS ACT.

(Assented to June 14, 1974)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions.

1 In this Act

(a) "blind person" means a person who

(i) is registered as a blind person with The Canadian National Institute for the Blind, a corporation incorporated under the Canada Corporations Act and continued under the Canada Business Corporations Act, or

(ii) is in receipt of an allowance on account of blindness under The Blind Persons Allowances Act or the Blind Persons Act (Canada), or

(iii) having been in receipt of an allowance on account of blindness under the Acts mentioned in sub-clause (ii), is in receipt of a pension under the Old Age Security Act (Canada) and is still blind within the meaning of the Acts mentioned in sub-clause (ii) and regulations made thereunder;

En. S.M. 1982, c. 23, s. 1.

(a.1) "commercial unit" means any building, or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office or meeting room in any building or other structure or in a part thereof;

En. S.M. 1982, c. 23, s. 1.

(b) "Commission" means the Manitoba Human Rights Commission;

(b.1) "dog guide" means a dog which serves as a dog guide or leader for a blind person and has been especially trained for the purpose;

En. S.M. 1982, c. 23, s. 2.

(c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(d) "employment agency" includes a person who undertakes with or without compensation to procure employees and a person who undertakes with or without compensation to procure employment for persons;

(d.1) "family status" for the purpose of this Act includes the status of an unmarried person or parent, a widow or widower or that of a person who is divorced or separated or the status of the children, dependants, or members of the family of a person;

En. S.M. 1976, c. 48, s. 1.

(e) "housing accommodation" means any place of dwelling, except a place of dwelling that is part of a building in which the owner or his family or both, reside where the occupants of the place of dwelling are required to share

(i) a bathroom or kitchen facility, or

(ii) a common entrance, except in a duplex, apartment building or condominium,

with the owner of the dwelling or his family or both;

En. S.M. 1978, c. 43, s. 1.

(f) "minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(g) "national origin" includes the national origin of an ancestor;

(h) "occupational association" means any organization, other than a trade union or employers' organization, in which membership is a prerequisite or from which licensing or certification is necessary, to carrying on a trade, occupation or profession;

(i) "person" in addition to the extended meaning given it by The Interpretation Act, includes an employment agency, and employers' organization, a trade union, an occupational association, and a class of persons;

(i.1) "physical or mental handicap" means a disability, infirmity, malformation or disfigurement whether of a physical or mental nature that is caused by injury, birth defect or illness and includes but is not limited to epilepsy, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a dog guide, wheelchair or other remedial appliance or device;

En. S.M. 1982, c. 23, s. 3.

(j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers;

(k) "wages" includes pay, salary, remuneration, lost benefits, out-of-pocket expenses and interest thereon;

(l) "white cane" means a cane or walking stick all of which or the major portion of which is white.

En. S.M. 1982, c. 23, s. 4.

S.M. 1974, c. 65, s. 1; Am. S.M. 1976, c. 48, s. 1; S.M. 1977, c. 46, s. 1; S.M. 1978, c. 43, s. 1; S.M. 1982, c. 23, ss. 1-4

PART I

PROHIBITED DISCRIMINATORY PRACTICES

Discrimination prohibited in notices, signs, etc.

2(1) No person shall

(a) publish, display, transmit or broadcast, or cause to be published, displayed, transmitted or broadcast; or

(b) permit to be published, displayed, broadcast or transmitted to the public, on lands or premises, in a newspaper, through television or radio or telephone, or by means of any other medium which he owns or controls;

any notice, sign, symbol, emblem or other representation

(c) indicating discrimination or intention to discriminate against a person; or

(d) exposing or tending to expose a person to hatred;

because of the race, nationality, religion, colour, sex, marital status, physical or mental handicap, age, source of income, family status, ethnic or national origin of that person.

Am. S.M. 1976, c. 48, s. 2; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 5.

Exception as to matters of opinion.

2(2) Nothing in subsection (1) shall be deemed to interfere with the free expression of opinion upon any subject.

Exception.

2(3) Subsection (1) does not apply to the display of a notice, sign, symbol, emblem or other representation displayed to identify facilities customarily used by one sex.

S.M. 1974, c. 65, s. 2; Am. S.M. 1976, c. 48, s. 2; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 5.

Discrimination prohibited in accommodation, service, etc.

3(1) No person shall

(a) deny to any person or class of persons any accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public; or

(b) discriminate against any person or class of persons with respect to any accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public;

unless reasonable cause exists for the denial or discrimination.

En. S.M. 1982, c. 23, s. 6; Am. S.M. 1982-83-84, c. 93, s. 15.

Things that do not constitute reasonable cause.

3(2) For the purposes of subsection (1), the race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, or ethnic or national origin of a person does not constitute reasonable cause unless the Commission is satisfied after considering the facts of the particular situation that a denial or discrimination on such grounds is justified in that particular situation.

En. S.M. 1982, c. 23, s. 6.

Definition.

3(3) For the purposes of subsection (1), the expression "accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public" includes, without restricting the generality of that expression, any benefit provided and any activity or undertaking carried out, by Her Majesty in the right of Manitoba, the Government of Manitoba, any municipal corporation or educational institution in Manitoba, any board or commission created by or subject in this regard to the laws of Manitoba, or by any of their agents or servants.

En. S.M. 1982, c. 23, s. 6.

Exception for person under the age of majority.

3(4) Nothing in subsection (1) prevents the denial or refusal of any accommodation, service, facility, goods, right, licence or privilege to a person who has not attained the age of majority if the denial or refusal is in accordance with any law or regulation in force in Manitoba.

En. S.M. 1982, c. 23, s. 6.
Am. S.M. 1982-83-84, c. 93, s. 15.

Discrimination prohibited in occupancy of commercial unit or housing accommodation.

4(1) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

(a) deny to any person or any member of his family, the right to occupancy of any commercial unit or any housing accommodation; or

(b) discriminate against any person or any member of his family with respect to any term or condition of occupancy of any commercial unit or housing accommodation,

unless reasonable cause exists for the denial or discrimination.

En. S.M. 1976, c. 48, s. 4.

Things that do not constitute reasonable cause.

4(2) For the purposes of subsection (1), the race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, family status, ethnic or national origin, or the source of income of a person does not constitute reasonable cause.

En. S.M. 1976, c. 48, s. 4; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 7.

Accommodation may be restricted on basis of sex.

4(3) Notwithstanding subsections (1) and (2), occupancy of all the housing accommodation in a building, except that of the owner or his family, may be restricted to individuals of the same sex.

En. S.M. 1976, c. 48, s. 4.

Preference for elderly persons.

4(4) Nothing in subsection (1) prevents a person from giving preference to elderly persons of housing accommodation in any building that is designed or used primarily for elderly persons.

En. S.M. 1976, c. 48, s. 4.
En. S.M. 1976, c. 48, s. 4; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 7.

Discrimination prohibited in the purchase of property.

5 No person shall

(a) deny to any person the opportunity to purchase any commercial unit or housing accommodation that is advertised or in any way represented as being available for sale; or

(b) deny to any person the opportunity to purchase or otherwise acquire land or an interest in land that is advertised or in any way represented as being available for sale; or

(c) discriminate against any person with respect to any term or condition of the purchase or other acquisition of any commercial unit, housing accommodation, land or interest in land that is advertised or in any way represented as being available for sale;

because of the race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin of that person.

S.M. 1974, c. 65, s. 5; Am. S.M. 1976, c. 48, s. 5; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 8.

Discrimination prohibited in employment.

6(1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment or in respect of training for employment or in respect of an intended occupation, employment, advancement or promotion, and in respect of his membership or intended membership in a trade union, employers' organization or occupational association; and, without limiting the generality of the foregoing

(a) no employer or person acting on behalf of an employer, shall refuse to employ, or to continue to employ or to train the person for employment or to advance or promote that person, or discriminate against that person in respect of employment or any term or condition of employment;

(b) no employment agency shall refuse to refer a person for employment, or for training for employment, and

(c) no trade union, employers' organization or occupational association shall refuse membership to, expel, suspend or otherwise discriminate against that person; or negotiate, on behalf of that person, an agreement that would discriminate against him;

because of race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political beliefs or family status of that person.

Am. S.M. 1976, c. 48, s. 6; Am. S.M. 1977, c. 46, ss. 2 & 3; S.M. 1982, c. 23, s. 9.

Discrimination prohibited in advertising.

6(2) No employer shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast, any words, symbol or other representation that indicate directly or indirectly that race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status is or may be a limitation, specification or preference for a position of employment.

Am. S.M. 1976, c. 48, s. 7; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 10.

Discrimination prohibited in advertising on behalf of an employer.

6(3) No person shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast any advertisement for a position of employment for or on behalf of an employer

(a) that contains any words, symbol, or other representation; or

(b) that is under a classification or heading;

indicating directly or indirectly that race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status is or may be a limitation, specification or preference for the position of employment.

Am. S.M. 1976, c. 48, s. 8; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 11.

Pre-employment inquiries.

6(4) No person shall use or circulate any form of application for employment or make any written or oral inquiry that expresses either directly or indirectly any limitation, specification or preference as to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status of any person or that requires an applicant for employment to furnish any information concerning those particulars.

Am. S.M. 1976, c. 48, s. 9; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 12.

Employment agencies.

6(5) No employment agency shall discriminate against any person because of race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant for employment to an employer or anyone acting on behalf of the employer.

Am. S.M. 1976, c. 48, s. 10; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 13.

Exception.

6(6) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on sex, age, marital status, family status, physical or mental handicap, or political belief, do not apply, where

(a) sex, age, marital status, family status, or political belief, is a reasonable occupational qualification; or

(b) physical or mental handicap is a reasonable disqualification.

En. S.M. 1982, c. 23, s. 14.

Exception.

6(7) The provisions of this section relating to a limitation or preference in employment do not apply to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit and is operated primarily to foster the welfare of a group or class of persons characterized by a common race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin, where, in any such case, one or more of the above enumerated criteria is a bona fide occupational qualification and requirement.

Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 15.

6(8) Repealed. S.M. 1982, c. 23, s. 16.

Exception for persons under the age of majority.

6(9) Nothing in this section prevents a person from limiting the employment of a person under the age of majority or from classifying or referring to a person under the age of majority for employment in accordance with the provisions of any provincial law regulating the employment of persons under the age of majority.

Exception for physical or mental handicap.

6(10) The provisions of this section prohibiting the discrimination against a person for a position or employment by reason of the physical or mental handicap of the person do not apply where the nature and extent of the handicap reasonably precludes or renders the person incapable of satisfactorily discharging the duties of that position.

En. S.M. 1977, c. 46, s. 4; Am. S.M. 1982, c. 23, s. 17.

Handicapped persons with training and experience.

6(11) Notwithstanding subsection (10), no person shall refuse to employ a person who is physically or mentally handicapped, if the person has adequate training and experience and is qualified and capable to carry out the duties and functions of the position.

En. S.M. 1977, c. 46, s. 4; Am. S.M. 1982, c. 23, s. 18.

S.M. 1974, c. 65, s. 6; Am. S.M. 1976, c. 48, ss. 6-10; Am. S.M. 1977, c. 46, ss. 2-4; S.M. 1982, c. 23, ss. 9-18.

Discrimination prohibited in contracts.

7(1) No person shall, in making available to any person, a contract that is offered to the public generally,

(a) discriminate against any person; or

(b) include terms or conditions in any such contract that discriminate against a person;

on the basis of race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin of that person.

Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 19.

Exception.

7(2) No provision of section 6 or subsection (1) shall prohibit a distinction on the basis of age, sex, family status, physical or mental handicap or marital status

(a) of any employee benefit plan or in any contract which provides an employee benefit plan, if the Commission is satisfied on the basis of the guidelines set out in the regulations that the distinction is not discriminatory or that the employee benefit can be provided only if the distinction is permitted; or

(b) in any contract which provides life insurance, accident and sickness insurance or a life annuity to a specified person where the contract is not part of an employee benefit plan, if the Commission is satisfied on the basis of guidelines set out in the regulations that the distinction is not discriminatory or that the insurance or annuity can be provided only if the distinction is permitted.

En. S.M. 1976, c. 48, s. 11; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 20.

Automobile insurance contracts not affected.

7(3) Nothing in this Act prohibits a distinction on the basis of sex, age or marital status in any contract of automobile insurance offered or made available to the public under The Manitoba Public Insurance Corporation Act or The Insurance Act.

En. S.M. 1978, c. 43, s. 2.

S.M. 1974, c. 65, s. 7; Am. S.M. 1976, c. 48, s. 11; S.M. 1977, c. 46, s. 2; S.M. 1978, c. 43, s. 2; S.M. 1982, c. 23, ss. 19 & 20.

Restriction on use of white cane.

7.1(1) No person other than a blind person shall carry or use a white cane on any highway or public thoroughfare, or in any public conveyance or other public place.

En. S.M. 1982, c. 23, s. 21.

Dog guides to accompany blind persons.

7.1(2) Notwithstanding any enactment, regulation, or by-law, a dog guide

(a) while accompanying a blind person; and

(b) while in the custody and under the control of a blind person;

may, without charge, enter and remain with the blind person in any place where the public is admitted, or facility, or conveyance, where the public is accommodated.

En. S.M. 1982, c. 23, s. 21

Discrimination, etc., prohibited for taking part in proceeding under Act.

8 No person shall

(a) refuse to employ or continue to employ any person;

(b) threaten to dismiss or threaten to penalize in any way any person in regard to his employment or any term or condition thereof;

(c) discriminate against any person in regard to his employment or any term or condition thereof; or

(d) intimidate or coerce or impose any pecuniary or other penalty upon any person;

on the ground that such person,

(e) has made or may make a complaint under this Act;

(f) has made or may make a disclosure concerning the matter complained of;

(g) has testified or may testify in a proceeding under this Act; or

(h) has participated or may participate in any other way in a proceeding under this Act.

S.M. 1974, c. 65, s. 8; Am. S.M. 1975, c. 42, s. 26.

Special programs.

9 Notwithstanding the provisions of this Part, the Commission may, upon such conditions or limitations and subject to revocation or suspension, approve in writing a special plan or program by the Crown, any agency thereof, or any person designed to promote the socio-economic welfare and equality in status of a disadvantaged class of persons defined by race, nationality, religion, colour, sex, marital status, physical or mental handicap, family status, age, source of income or ethnic or national origin of the members of that class of persons.

En. S.M. 1978, c. 43, s. 3; Am. S.M. 1982, c. 23, s. 22.

PART II

ADMINISTRATION

Manitoba Human Rights Commission established.

10(1) There is hereby established a commission to be called: "The Manitoba Human Rights Commission".

Composition.

10(2) The Commission shall be composed of such numbers of persons as may be determined from time to time by the Lieutenant Governor in Council.

Members.

10(3) The members of the Commission shall be appointed by the Lieutenant Governor in Council.

Chairperson.

10(4) The Lieutenant Governor in Council shall designate one of the members as chairperson and one member as vice-chairperson.

Vacancies.

10(5) The Lieutenant Governor in Council may fill any vacancy however created, in the membership of the Commission.

Remuneration and term of office.

10(6) The Lieutenant Governor in Council may determine the term of office and the remuneration of the members of the Commission.

S.M. 1974, c. 65, s. 10.

Responsibility.

11 The Commission is responsible to the minister for the administration of this Act.

S.M. 1974, c. 65, s. 11.

Members of Commission continued in office.

12 Those persons, who on the coming into force of this Act are members of the Commission, shall continue to hold office until their successors are appointed.

S.M. 1974, c. 65, s. 12.

Function.

13 The Commission has power to administer this Act and without limiting the generality of the foregoing, it is the function of the Commission,

(a) to forward the principle that every person is free ..nd equal in dignity and rights without regard to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political beliefs, family status or source of income;

(b) to promote an understanding of, acceptance of and compliance with this Act;

(c) to develop and conduct educational programs designed to eliminate discriminatory practices related to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political beliefs, family status or source of inc me;

(d) to disseminate knowledge and promote understanding of the civil and legal rights of residents of the province and to conduct educational programs in that respect;

(e) to further the principle of equality of opportunities and equality in the exer ise of civil and legal rights regardless of status.

S.M. 1974, c. 65, s. 13; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 23.

Employment of personnel.

14 An executive director and such other officers and employees as may be required for te purpose of the administration of this Act, may be employed under The Civil Service Act.

S.M. 1974, c. 65, s. 14.

Responsibility of the executive director.

15 The executive director of the Commission, in addition to such other duties, that he may be required to perform by law, shall

(a) be responsible to the Commission for its day-to-day activities and operations; and

(b) act as registrar of complaints received by the Commission to assure that they are dealt with according to the Act.

S.M. 1974, c. 65, s. 15.

Confidentiality of information.

16 Except for the purposes of a prosecution under this Act, or proceedings before a board of adjudication, or in any court proceedings, or for the purpose of the administration and enforcement of this Act, no person shall, except with the consent of the commission

(a) knowingly communicate, or allow to be communicated, to any person any information obtained by or on behalf of the commission or the Executive Director under this Act; or

(b) knowingly allow any person to inspect, or to have access to, any copy of any book, record, document, file, correspondence or other record obtained by, or on behalf of, the commission or the Executive Director under this Act.

En. S.M. 1976, c. 48, s. 12.

Costs of administration.

17 The costs of administering this Act shall be paid from and out of the Consolidated Fund with moneys authorized by an Act of the Legislature to be so paid and applied.

S.M. 1974, c. 65, s. 17.

Annual report.

18(1) The Commission shall prepare annually and submit to the minister, a report of the activities of the Commission and boards of adjudication during the preceding year.

Am. S.M. 1976, c. 48, s. 13.

Annual report.

18(2) The minister shall lay forthwith the report before the Legislative Assembly if it is in session and if not, with 15 days of the commencement of the next ensuing session.

S.M. 1974, c. 65, s. 18; Am. S.M. 1976, c. 48, s. 13.

PART III

ENFORCEMENT OF ACT

Complaints.

19(1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act, may file with the Commission a complaint in the form prescribed by the Commission, such complaint to be filed with the Commission not later than 6 months after the date of the alleged contravention or, where a continuing contravention is alleged, after the date of the last alleged contravention of this Act.

Consent of offended person.

19(2) Where a complaint is made by a person other than the person whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.

Complaints initiated by Commission.

19(3) Where the Commission has reason for believing that any person has contravened a provision of this Act in respect of a person or group of persons, the Commission may initiate a complaint.

S.M. 1974, c. 65, s. 19.

Commission may dismiss complaint.

19(4) Where the Commission is satisfied that a complaint is without merit, it may dismiss the complaint at any stage of the proceeding.

En. S.M. 1978, c. 43, s. 4.
S.M. 1974, c. 65, s. 19; Am. S.M. 1978, c. 43, s. 4.

Investigation of complaint.

20 The Commission shall, as soon as is reasonably possible, investigate any complaint of an alleged contravention of the Act.

S.M. 1974, c. 65, s. 20; Am. S.M. 1976, c. 48, s. 14.

Powers of commission after investigation.

21(1) The commission, after investigating the complaint, may

(a) endeavour to effect a settlement of the complaint of an alleged contravention of the Act, and failing settlement of the complaint, the commission may request the minister to appoint a board of adjudication to hear and decide the complaint; or

(b) request the minister to appoint a board of adjudication to hear and decide the complaint; or

(c) recommend that the minister commence a prosecution for an offence under this Act.

En. S.M. 1976, c. 48, s. 15.

Appointment of board.

21(2) The minister shall, within a reasonable time after the receipt of a request under clause (1)(a) or (b) appoint a board of adjudication consisting of one or more persons to hear and decide the compalint.

En. S.M. 1976, c. 48, s. 15.

Prohibition.

21(3) No person appointed to a board of adjudication shall have taken part in any investigation or consideration of the complaint prior to the inquiry by a board of adjudication.

En. S.M. 1976, c. 48, s. 15.

Powers of Commission and board of adjudication.

22 The Commission and any board of adjudication appointed under this Act may determine their procedure and each member of a board of adjudication has all the powers of a commissioner under Part V of The Manitoba Evidence Act, and Part V excepting section 88 of that Act, applies to any investigation being made by the Commission or any inquiry being made by a board of adjudication but no notice of the authorization or of the purpose or scope of the investigation or inquiry, as the case may be, is to be made by the Commission or board of adjudication and no notice of the time and place of the investigation or inquiry need be published as required under section 88 of that Act.

S.M. 1974, c. 65, s. 22.

Access to premises and documents.

23(1) For the purpose of investigating a specific complaint under this Act, the executive director, any person with the written authorization of the executive director, or the board of adjudication,

(a) shall have access during normal business hours to any land, residence or business premises of any person with respect to whom there is reasonable and pro. .ble grounds to believe that such access will assist the investigation of the complaint; and

(b) may inspect such specific documents, correspondence and records relevant to the complaint and may make copies thereof or take extracts therefrom.

En. S.M. 1976, c. 48, s. 16.

Court order for access.

23(2) Where a person refuses to grant access or to produce documents, correspondence or records as required under subsection (1), the executive director or a board of adjudication may on an ex parte application to a judge of the County Court or Provincial Judges Court, apply for an order granting him access to the land, residence, business premises, documents, correspondence or records, as the case may be; and the judge, if he is satisfied that the authority for access is reasonable and necessary, may grant the order.

En. S.M. 1976, c. 48, s. 16.

Information confidential.

23(3) Except for the purposes of a prosecution under this Act, or any court proceeding or for the purpose of the administration and enforcement of this Act, no person shall

(a) knowingly communicate, or allow to be communicated to any person any information obtained under this section; or

(b) knowingly allow any person to inspect, or to have access to, any copy of any document, correspondence or record, obtained under this section.

En. S.M. 1976, c. 48, s. 16.

Exception.

23(4) Subsection (3) does not prohibit

(a) the communication of any information by the executive director or a board of adjudication or by a person acting under the authority of the executive director, to persons charged with the administration of any statutes of Canada or any other province that relate to the subject matter of this Act; or

(b) the communication of any information with the consent of the person to whom the information relates; or

(c) the release or publication by the executive director or the board of adjudication, with the consent of the owner, of any document, correspondence or record or any copy thereof.

En. S.M. 1976, c. 48, s. 16.

Obstruction.

24 No person shall hinder, obstruct, or interfere with or attempt to hinder, obstruct, molest or interfere with, the Commission or a person acting under the authority of the Commission or a board of adjudication in the exercise of their powers and duties under this Act.

S.M. 1974, c. 65, s. 24.

Hearing.

25(1) Upon the appointment of a board of adjudication the board shall without undue delay hold a public hearing for the purpose of inquiry into and deciding the complaint.

Evidence before board.

25(2) The board of adjudication may receive and accept, on oath, affidavit, or otherwise, such evidence or information as it, in its discretion, considers necessary and appropriate, whether or not such evidence or information would be admissible in a court of law.

Administration of oath.

25(3) Any member of the board of adjudication may administer an oath or affirmation to any witness who is called to give evidence before the board.

Notice to parties.

25(4) Before proceeding to hold a hearing, the board of adjudication shall give at least 10 days written notice of the date, time and place of the hearing to all the parties thereto, and a copy of the complaint shall be annexed to the notice.

Full opportunity to be heard.

25(5) The board of adjudication shall give to all parties to a hearing being conducted by it full opportunity to be represented by counsel, to present evidence and make submissions.

Exclusive jurisdiction of board to decide law and fact.

25(6) Subject to appeal under subsection 30(1), the board of adjudication has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any party has contravened this Act or for the making of any order pursuant to such decision.

En. S.M. 1976, c. 48, s. 17.
S.M. 1974, c. 65, s. 25; Am. S.M. 1976, c. 48, s. 17.

Parties to a hearing.

26 The parties to a hearing before a board of adjudication with respect to a complaint that is being inquired into by the board are,

(a) the Commission, which shall have the carriage of the complaint;

(b) the person named in the complaint as the complainant;

(c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;

(d) the accused or any person named in the complaint as alleged to have contravened this Act; and

(e) any other person as may be determined by the board.

S.M. 1974, c. 65, s. 26.

Recording of oral evidence.

27 The oral evidence taken before a boad of adjudication shall be recorded.

S.M. 1974, c. 65, s. 27.

Powers of the board.

28(1) Where the board of adjudication decides that there has been no contravention of the Act by any party, it shall dismiss the complaint.

En. S.M. 1976, c. 48, s. 18.

Powers of board.

28(2) Where the board of adjudication decides that a party has contravened any provision of the Act, it may do one or more of the following things:

(a) Make an order requiring the party who contravened the Act to do or refrain from doing anything in order to secure compliance with the Act.

(b) Make an order requiring the party who contravened the Act to compensate the person discriminated against for all, or such part as a board may determine, of any wages or salary lost or expenses incurred by reason of the contravention of this Act.

(c) Order the person who contravened the Act to pay to the person discriminated against, a penalty or exemplary damages in such amount as the board may determine, if the board is of the opinion that the person discriminated against suffered damages in respect of his feelings, or selfrespect.

En. S.M. 1976, c. 48, s. 18.

Board of adjudication to advise Attorney-General if delay.

28(3) Where a board of adjudication has not rendered a decision within 90 days after being appointed, the board shall forthwith, in writing, advise the Attorney-General of the reasons for the delay and indicate when a decision will be rendered.

En. S.M. 1982, c. 23, s. 24.

Action by Attorney-General.

28(4) At any time after 90 days have elapsed from the date of appointment of a board of adjudication, the Attorney-General may do any one or more of the following things:

(a) Fix a time within which the board shall render its decision or finding.

(b) Revoke the appointment of the board of adjudication and appoint a new board of adjudication, in which case the provisions of sections 21 to 31 apply, mutatis mutandis.

(c) If the board has completed a hearing of the evidence, order the board to file with the Court of Queen's Bench the record of the proceedings together with all the evidence in the board's possession which forms part of the record.

En. S.M. 1982, c. 23, s. 24.

Disposition by Court of Queen's Bench.

28(5) Upon receipt of the record and evidence under clause (4)(c), the Court of Queen's Bench shall consider and dispose of the matter based on the record and evidence, mutatis mutandis, as it would dispose of an appeal under section 30.

En. S.M. 1982, c. 23, s. 24.
S.M. 1976, c. 48, s. 18; Am. S.M. 1982, c. 23, s. 24.

Order becoming judgment of court.

29(1) Subject to subsection (2), where a board of adjudication makes an order under clause 28(2)(b) or (c) or both, it may file a certified copy thereof in the Court of Queen's Bench and upon the filing of the order, it becomes a judgment of the Court of Queen's Bench and may be enforced as a judgment of that court.

En. S.M. 1976, c. 48, s. 19.

When order may be filed.

29(2) An order referred to in subsection (1) shall not be filed,

(a) until the time for appeal therefrom has expired and no appeal is filed; or

(b) where an appeal is filed against the order, after the appeal is dismissed.

S.M. 1974, c. 65, s. 29; Am. S.M. 1976, c. 48, s. 19.

Appeal.

30(1) Any party to a hearing before a board of adjudication may appeal from a decision or order of the board, within 30 days from the making of the decision or order, to the Court of Queen's Bench.

Service of notice of appeal.

30(2) A copy of the notice of appeal shall, within 7 days of the filing thereof be served personally or by registered mail to the appellant on all other persons who were parties to the hearing and on the board.

Record to be filed on appeal.

30(3) Forthwith upon the receipt of a notice of appeal under this section, the board of adjudication shall file with the Court of Queen's Bench, the record of the proceedings before it in which the decision or order appealed from was made which, together with a transcript of the oral evidence taken before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

S.M. 1974, c. 65, s. 30.

Powers of court.

31 An appeal under section 30 may be made on questions of law or fact, or both, and the court after hearing the appeal may,

(a) affirm or reverse the decision or order of the board of adjudication; or

(b) direct the board to make any other decision or order that the board is authorized to make under the Act; or

(c) substitute its decision or order for that of the board.

S.M. 1974, c. 65, s. 31; Am. S.M. 1976, c. 48, s. 20.

Application to court for order for compliance.

32 Where a board of adjudication makes an order under clause 28(a) and the person against whom the order is made refuses, fails or neglects to comply with the order or any part thereof, the minister may apply by way of Originating Notice of Motion to the Court of Queen's Bench for an order requiring the person to comply with the order of the board of adjudication or any part thereof.

S.M. 1974, c. 65, s. 32; Am. S.M. 1976, c. 48, s. 21.

Offences and penalties.

33(1) Every person who,

(a) deprives, abridges or restricts or attempts to deprive, abridge or restrict any person or class of persons in the enjoyment of a right under this Act;

(b) contravenes any provision of this Act; or

(c) fails, refuses or neglects to comply with an order of a board of adjudication, in whole or in part, other than an order or part of an order directing for the payment of wages;

is guilty of an offence and liable on summary conviction,

(d) if an individual to a fine of not less than $100.00 and not more than $1,000.00; or

(e) if a corporation, trade union, employers' organization, employment agency or occupational association, to a fine of not less than $500.00 and not more than $5,000.00.

Laying of information.

33(2) A prosecution for an offence under this Act may be commenced on the information of the Commission or any person alleging on behalf of himself or of any class of persons that an offence has been committed under this Act.

Prosecution of employers' organization, trade union or occupational association.

33(3) A prosection for an offence under this Act may be brought against an employers' organization, trade union, or occupational association in the name of the organization, union or association; and for the purpose of such a prosecution the organization, union or association shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of such an organization, union, or association, shall be deemed to be an act or thing done or omitted by the employers' organization, trade union or occupational association.

Limitation of time for prosecution.

33(4) No information may be laid or prosecution commenced,

(a) with respect to an alleged offence under this Act after the expiration of one year from the date of the alleged offence; or

(b) with respect to the failure, refusal, or neglect to comply with an order or part of an order of a board of adjudication, after the expiration of one year from the date of the making of the order, or where an appeal was taken from the order and was dismissed, after the expiration of one year from the date of the dismissal of the appeal; or

(c) with respect to the failure, refusal or neglect to comply with an order or part of an order of a board of adjudication where the board has allowed time for compliance therewith, after the expiration of one year from the date of expiration of the time allowed by the board to comply with the order.

Consent to prosecution.

33(5) No prosecution for an offence under this Act shall be instituted without the consent in writing of the minister.

Technical defects.

33(6) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

S.M. 1974, c. 65, s. 33.

PART IV

MISCELLANEOUS

Injunction.

34 In addition to what may be permitted by this Act, a person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict a person or class of persons in the enjoyment of a right under this Act because of the race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political belief, family status, or source of income of the person; may be restrained by an injuction issued in an action in the Court of Queen's Bench brought by any person against the person responsible for the deprivation, abridgement or other restriction or any attempt thereat.

S.M. 1974, c. 65, s. 34; Am. S.M. 1976, c. 48, s. 22; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 25.

Regulations.

34.1 The Lieutenant Governor in Council may, for the purposes of section 7, make regulations prescribing guidelines which may be followed by, but are not necessarily binding upon, the commission or a board adjudication.

En. S.M. 1976, c. 48, s. 23.

Crown bound.

35 The Crown, and every servant and agent of the Crown, is bound by this Act.

S.M. 1974, c. 65, s. 35.

Transitional provision.

36 Where prior to the coming into force of the amendments set out in this Act, any matter, application, proceeding, investigation or hearing was commenced, that matter, application, proceeding, investigation or hearing shall be continued and completed in accordance with the provisions of The Human Rights Act, being chapter H175 of the Revised Statutes, as it stood prior to the coming into force of this Act.

En. S.M. 1976, c. 48, s. 24.

Repeal.

37 The Human Rights Act, being chapter 104 of the Statutes of Manitoba, 1970 (chapter H175 of the Continuing Consolidation of the Statutes of Manitoba) is repealed.

S.M. 1974, c. 65, s. 37.

Reference in continuing consolidation.

38 This Act may be referred to as chapter H175 in the continuing consolidation of the Statutes of Manitoba.

S.M. 1974, c. 35, s. 38.

Commencement of Act.

39 This Act comes into force on a day fixed by proclamation.

S.M. 1974, c. 65, s. 39.

Note: This Act was proclaimed in force on October 25, 1974. See Manitoba Gazette, October 19, 1974, page 1185.

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APPENDIX D

Evolution of the Manitoba Human Rights Act

Group Factor / Grounds of Complaint	Notices/ Signs/ Symbols	Accommodations/ Services/ Facilities	Housing	Purchase of Property	Employment	Contracts
Race	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Colour	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Nationality	—	1970	1970	—	1970	—
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Ethnic/ National Origin	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Sex	1970	—	—	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Marital Status	—	—	—	—	—	—
	1974	—	—	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Age	—	—	—	—	—	—
	—	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Family Status	—	—	—	—	—	—
	—	—	—	—	—	—
	1976	1982	1976	1982	1976	1976
Source of Income	—	—	—	—	—	—
	—	—	1974	—	—	—
	1976	—	1976	—	—	—
Religion	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Political Belief	—	—	—	—	—	—
	—	—	—	—	1974	—
	—	—	—	—	1976	—
Physical Handicap	1977	1977	1977	1977	1977	1977
Mental Handicap	1982	1982	1982	1982	1982	1982

APPENDIX E

Complaint of Discrimination Under The Manitoba Human Rights Act

Case No. _____

Name and Address of the person(s) filing the complaint (hereinafter called "the Complainant")	Name and Address of the person(s) complained against (hereinafter called "the Respondent")
Name and Address of any person or class of persons discriminated against in addition to or other than the Complainant(s)	

The Complainant alleges that in the Province of Manitoba { on or about the _____ day of _____ 19__. **OR** on a continuing basis up to and including the _____ day of _____ 19__

that the Respondent(s) did contravene section(s) _____ of **The Human Rights Act**, or any other applicable section, as follows

SAMPLE

I certify that the foregoing information is correct to the best of my knowledge and I believe that the events described above constitute a contravention of **The Human Rights Act**.

I hereby confirm that the Manitoba Human Rights Commission and its officers have my consent to examine and/or make copies of any and all records, reports, documents or data, including all medical records, as may be required in the investigation of this complaint.

City/Town Complaint Signed At	Date Day / Month / Year	Signature of Complainant